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COMMISSION ON HUMAN RIGHTS
Fifty-seventh session
Item 19 of the provisional agenda

ADVISORY SERVICES AND TECHNICAL COOPERATION IN THE FIELD OF HUMAN RIGHTS

Written statement*/ submitted by Human Rights Watch,
a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[5 January 2001]

*/ This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

GE.*200'0'0364*

ENG

We wish to bring to the Commission's attention three countries in which the Office of the High Commissioner is engaged in activities ranging from on the ground human rights monitoring, through technical assistance and institution building, to laying the groundwork for future technical cooperation. We call on the Commission and on the High Commissioner to take measures that would strengthen these activities and make their impact on the human right conditions in each country stronger.

Burundi

The civil war continued in Burundi, with both the government and rebel forces responsible for atrocities against civilians. Members of the armed forces have abused civilians without being held accountable by their superiors or the government as a whole. They have also failed to protect civilians, permitting attacks even within the city of Bujumbura without any reaction. Rebels have continued to kill civilians and to loot their property.

The special rapporteur on Burundi, Marie-Therese A. Keita Boucoum, has been able to visit Burundi only briefly, but spoke out clearly against killings and other abuses by both military and rebels. We urge the Commission to renew her mandate.

The field office of the High Commissioner of Human Rights, which cut its staff in late 1999 following a security alert, operated in 2000 with reduced staff and resources. Thus handicapped, it limited its work mostly to improving the judicial system and did not report publicly on human rights abuses. It even stopped circulating confidential reports to the diplomatic community. We urge the Commission to strengthen the field office with the mandate and resources necessary for rigorous monitoring and public reporting, particularly during this transition period following the Arusha Accords when establishing respect for human rights will be crucial for ensuring peace.

More than 100,000 civilians have been slain in Burundi, both by Hutu and by Tutsi. Many of these killings are crimes against humanity and some have been described as genocide by a U.N. commission of inquiry. They must be prosecuted promptly by an international tribunal and by Burundian courts which meet international fair trial standards. In order to end impunity, we urge the Commission to publicly reaffirm that leaders on all sides who were responsible for war crimes or crimes against humanity must be brought to justice, using Burundian national courts as well as an international tribunal.

The majority of cases now pending would be judged in Burundian courts. Given the current limitations in number and resources of these courts, the Commission should call on member states to provide the assistance necessary for them to function effectively and with due process, including training new judicial personnel.

Cambodia

Since its establishment in 1994, the Cambodia Office of the High Commissioner for Human Rights (COHCHR) has played a key role in reporting on human rights violations and working with government institutions and Cambodian human rights organizations to improve the situation of human rights in Cambodia. While Cambodian NGOs are active nationally in human rights education and investigating abuses, rights groups that engage in high-profile advocacy and investigations are subject to government-sponsored attacks in the Cambodian press as well as

threats of prosecution or physical harm. Cambodian NGOs are also vulnerable to arbitrary closure or harassment by the government because of the lack of legislation clarifying their legal status. Human Rights Watch supports the COHCHR and urges the Commission to continue to provide strong backing for its efforts.

In October 1999, the U.N. Special Representative for Human Rights in Cambodia negotiated a new, two-year extension of the COHCHR's mandate, extending it to March 2002. However, as of last December, the Cambodian government has not yet signed an MOU to formalize the agreement with the COHCHR. In addition, COHCHR staff -- particularly Cambodian nationals -- have come under threat and even physical attack during the course of their work on numerous occasions over the last six years. The issue of immunity for COHCHR staff needs to be resolved with the Cambodian government, as well as an eventual exit strategy for the time that the COHCHR ends its mandate in Cambodia.

During the last year, government attacks on Cambodian human rights groups and independent electoral monitoring coalitions have escalated. For example, Cambodian rights groups called for lawful investigations of widespread arrests of alleged Cambodian Freedom Fighters in November and the "disappearances" and extrajudicial executions of alleged "Free Khmer" members in August. Afterwards, local and national authorities made threatening statements against the human rights groups, with the Ministry of Defense announcing in September that it would file defamation charges against the Human Rights Action Committee, a coalition of human rights organizations that publicly condemned the extrajudicial executions and "disappearances" in Kratie province. As commune-level elections approach in 2002, it will be more important than ever for the COHCHR to remain active and to retain a high profile, particularly in its Monitoring and Protection Unit.

The COHCHR continues to conduct crucial monitoring and investigation work. The COHCHR played a particularly important role after the violent coup in 1997, in which First Prime Minister Hun Sen ousted Second Prime Minister Ranariddh. At that time hundreds of opposition political party members went into hiding or exile, and non-government organizations and independent journalists greatly scaled back their activities or practiced self-censorship. During that time the COHCHR emerged as virtually the only body that could effectively monitor and deter human rights violations without serious reprisals. The COHCHR documented more than one hundred extra-judicial executions carried out in the aftermath of the coup, which were forwarded in several memoranda to the government by the Special Representative for Human Rights in Cambodia.

The COHCHR increased its human rights monitoring staff during the 1998 national elections. Thomas Hammarberg, the U.N. Secretary-General's Special Representative for Human Rights, made numerous visits to Cambodia, speaking out strongly on the issues of impunity, political violence, lack of equal access to the media, independence of the judiciary, torture, and accountability. In January 2000, after nearly four years in office, Mr. Hammarberg resigned the post. We trust that Mr. Hammarberg's replacement, Peter Leuprecht, who made his first visit to Cambodia in late November 2000, will play an equally strong role.

China

Human Rights Watch welcomed China's decision last November to sign a Memorandum of Understanding (MOU) with the U.N. Office of the High Commissioner for Human Rights on the development and implementation of technical cooperation programs. However, we question whether these programs will lead to any significant human rights improvements.

China has a poor record of compliance with U.N. human rights standards, and of cooperation with its human rights mechanisms. China has circumvented provisions of the U.N. treaties it has signed, used the rubric of "the rule of law" to justify laws and regulations that clearly violate international human rights standards, and failed to implement the recommendations of the Commission's thematic mechanisms. Mr. Abdelfattah Amor, the Special Rapporteur on Religious Intolerance, visited China in November 1994, as did the Working Group on Arbitrary Detention in October 1997. However, Chinese authorities have yet to implement their reasonable and modest recommendations.

Despite the fact that China became a party to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1988, allegations of torture in detention centers and prisons -- particularly in Tibet and Xinjiang -- have not diminished. Negotiations for a first visit to China by Sir Nigel Rodley, the U.N. Special Rapporteur on Torture, have thus far produced no agreement as China insists upon special conditions.

The educational components of the U.N. High Commissioner's technical cooperation program in 2001 may be useful, including workshops on human rights education, on human rights and the police, and on minor crimes. However, these address only the periphery and not the core of the problem -- an apparent lack of political will by Chinese authorities to make the changes in practice essential for implementing international standards, and for effectively enforcing existing legal safeguards.

More potentially helpful are activities planned for the second phase of technical cooperation in 2002. They focus on human rights and the administration of justice, including the question of reeducation through labor, human rights treaties and reporting obligations, and the role of the procuracy. However, the MOU provides no details regarding the content and objectives of these projects, nor does it suggest who might participate, and how progress will be assessed.

Unfortunately, the semi-annual progress reports by the OHCHR senior official on program implementation are to be available only to the country concerned and to the Office of the High Commissioner. Human Rights Watch urges the High Commissioner to be rigorous in providing a detailed assessment of progress, paying particular attention to China's cooperation with the Commission's thematic mechanisms. She should not hesitate to cancel the agreement, as provided for in Article VII of the MOU, should China's full cooperation not be forthcoming.

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COMMISSION ON HUMAN RIGHTS
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INTEGRATION OF THE HUMAN RIGHTS OF WOMEN AND THE GENDER PERSPECTIVE: VIOLENCE AGAINST WOMEN

Written statement*/ submitted by the Center for Reproductive Law and Policy, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[12 January 2001]

*/ This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

GE. *200101036 8*

ENG

1. Reproductive rights are firmly grounded in some of the longest-recognized basic human rights principles. These rights constitute a broad concept that recognizes a woman's right to access information and services to enable choices, as well as the inextricable link between her reproductive life and gender equity, equality, and empowerment. Reproductive rights encompass two basic principles: the right to reproductive health and the right to reproductive self-determination. The right to reproductive health translates into a governmental duty to ensure availability of quality reproductive health services and removal of legal barriers to reproductive health care. The right to reproductive self-determination has support in the right to plan one's family, the right to be free from interference in reproductive decision-making, and the right to be free from all forms of violence and coercion that affect women's sexual or reproductive lives. Both these principles are reflected in international human rights instruments that protect life and health such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights.

2. Two recent international conferences marked a turning point in the recognition and promotion of reproductive rights. In 1994 at the International Conference on Population and Development (ICPD) in Cairo, the international community embraced the concept of reproductive rights and health as never before. The ICPD Programme of Action is unprecedented in its broad understanding of the concept of reproductive rights and reproductive health[1] and it signaled a paradigm shift away from the mere provision of family planning towards a broad spectrum of reproductive health services and an increased acceptance of the right to reproductive self-determination. Building on the momentum of the ICPD, the 1995 Beijing Platform for Action reaffirmed the principles agreed to at the ICPD, but went even further by recognizing a woman's right to control her sexuality and sexual relations and to decide upon these matters on an equal basis with men.[2]

3. Recent efforts to assess the progress in implementing both the ICPD Programme of Action and the Beijing Platform for Action have produced two review documents[3] which reaffirm the principles originally agreed to at these conferences and serve to renew governments' commitment to advance reproductive health and rights. Both documents also note that there is much progress to be made in the full recognition of reproductive rights and in removing barriers to the enjoyment of those rights.

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[1] Programme of Action of the International Conference on Population and Development, Cairo, Egypt, 5-13 September 1994, in REPORT OF THE INTERNATIONAL CONFERENCE ON POPULATION AND DEVELOPMENT, U.N. Doc. A/CONF.171/13/Rev.1, U.N. Sales No. 95.XIII.18 (1995), paras 7.2, 7.3.

[2] Beijing Declaration and Platform for Action, Fourth World Conference on Women, Beijing, China, 4-15 Sept. 1995, para 96.

[3] *Key Actions for the further implementation of the Programme of Action of the International Conference on Population and Development*, report of the Ad Hoc committee of the Whole of the Twenty-first Special Session of the General Assembly, New York, 1 July 1999, UN Doc A/S-21/5/Add.1; *Further actions and initiatives to implement the Beijing Declaration and the Platform for Action* (Annex, Draft Resolution II), Report of the Ad Hoc Committee of the Whole of the twenty-third special session of the General Assembly, New York, 5-9 June 2000, UN Doc A/S-23/10Rev.1.

4. While the placement of reproductive rights within the international human rights framework is critical in the promotion and protection of these rights, it is also important to emphasize the crucial link between this framework and the enforcement of reproductive rights at the national level. This Commission has already recognized the role that national institutions play in the promotion and protection of human rights,[4] with a particular reference to the Beijing Platform for Action's call to create or strengthen national institutions for the protection of women's human rights.[5] It should be further emphasized that while formal laws and policies are crucial indicators of governmental commitment to promoting women's reproductive rights, their effectiveness depends on implementation and enforcement.

5. Since the Cairo and Beijing conferences, many governments have put reproductive rights on their national agenda, leading to significant legal and policy developments. In particular, in the last five years women's access to family planning and contraception has been expanded, national abortion laws have been liberalized, and measures have been taken to prevent and punish various forms of violence affecting women's reproductive health and rights.

Family Planning and Contraception

6. An estimated 350 million couples worldwide do not have access to the family planning services they need[6] and in many countries access to contraception is inhibited by laws, policies, or government inattention to women's reproductive health. A woman's right to access family planning and contraceptive methods and therefore to decide on the number and spacing of her children is based on the fundamental principle of reproductive self-determiniation. The right to plan one's family further implies a governmental duty to ensure that women have equal access to contraceptives and reproductive health services. This right is violated not only when a woman's access to contraception is denied but also when methods of controlling her fertility are imposed upon her without her informed consent. In recent years there have been several important legal and policy developments affecting contraceptive access. For example in 1999, Japan, previously the sole member state of the United Nations to prohibit the use of oral contraceptives, approved their use.[7] Other positive advancements include a recent trend in many countries to approve the use of emergency contraception (EC).[8]

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[4] *See eg. National Institutions for the Promotion and Protection of Human Rights*, Commission on Human Rights Res. 1999/72, U.N. Doc. E/CN.4/RES/1999/72 (Apr. 29, 1999).

[5] *Id.*, at pmbl.

[6] Safe Motherhood Inter-Agency Group [includes United Nations Population Fund, United Nations Children's Fund, World Health Organization, World Bank Group, among others], *Unwanted Pregnancy* (visited April 17, 2000) http://www.safemotherhood.org/init_facts.htm.

[7] Evy F. McElmeel, *Legalization of the Birth Control Pill in Japan will Reduce Reliance on Abortion as the Primary Method of Birth Control*, 8 PAC. RIM L. & POL'Y J. 681, 681 (1999).

[8] CRLP, REPRODUCTIVE RIGHTS 2000: MOVING FORWARD 23 (2000).

7. While these and other advances are certainly welcomed, CRLP acknowledges that many obstacles remain to ensuring women's right to reproductive self-determination, and the right to plan pregnancy in particular. CRLP recommends that governments eliminate restrictions on access to family planning and contraception, including excessive regulation and prohibitions on the dissemination of information regarding contraceptives.

Abortion

8. Every year, approximately 13% of maternal deaths worldwide are attributable to unsafe abortion.[9] Laws that deny women access to safe abortion are therefore not only a violation of a woman's rights to health, to autonomy in reproductive decision-making, and to non-discrimination, but also of her right to life. While roughly 39% of the world's population live in countries where abortion is either illegal or severely restricted,[10] there have been some positive developments toward the liberalization of abortion laws worldwide. For example, in 1996, Burkina Faso liberalized its Penal Code to permit abortion at any stage of pregnancy when a woman's life or health is endangered and in the case of severe fetal impairment.[11] Under the previous law, abortion was prohibited unless performed to save a woman's life.[12]

9. CRLP welcomes this and other recent liberalizations and recommends that governments further institute legal and policy reforms aimed at increasing access to safe and legal abortion services and continue to remove existing legal and other barriers.

Violence Against Women and Reproductive Rights

10. The right to be free from all forms of violence and coercion implies that women should be able to make decisions about reproduction free of violence and discrimination. Violence is often directed specifically at women's sexual or reproductive capacity and it may manifest itself in many forms including sexual violence such as rape and sexual exploitation/trafficking, as well as harmful traditional practices such as female circumcision/female genital mutilation (FC/FGM).

Sexual Violence

11. This Commission, as well as the international community more broadly, has widely accepted women's right to be free of gender based violence, including rape and other sexual violence.[13] As recognized by the Special Rapporteur on Violence Against

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[9] DIV. OF REPRODUCTIVE HEALTH, WHO, UNSAFE ABORTION 9 (3c ed. 1998).

[10] CRLP, REPRODUCTIVE RIGHTS 2000: MOVING FORWARD 27 (2000).

[11] Abortion is also permitted during the first 10 weeks of pregnancy in cases of rape or incest. Burkina Faso, Law No. 043/96/ADP amending the Penal Code, arts 383, 387 (1996).

[12] Burkina Faso, Penal Code, arts 317, 328 (1984) (superseded).

[13] *See eg. Elimination of Violence Against Women*, Commission on Human Rights Res. 2000/45, U.N. Doc. E/CN.4/RES/2000/45 (Apr. 20, 2000); *Declaration on the Elimination of Violence Against Women*, G.A.

Women, sexual violence in its various forms violates women's reproductive rights, including their rights to: health, bodily integrity and to control their sexuality and reproductive capacity.[14]

12. There have been several recent efforts on the part of governments to prevent and punish sexual violence against women. In particular, the adoption and ratification of the Convention of Belém do Pará in 1994 prompted numerous Latin American countries to undertake reforms which include the passage of laws to protect women from domestic violence in fourteen Latin American countries since 1995.[15]

13. While recognizing these important advances, CRLP would like to draw the Commission's attention to forms of sexual violence that continue to perpetuate a culture of violence against women. These include the use of rape as a weapon of war, laws that condone sexual violence against women by permitting a rapist to avoid criminal liability and punishment by marrying the victim, and the practice of so-called honor killings.[16] Moreover, formal laws addressing violence against women are usually inadequately implemented and enforced.

Female Circumcision/Female Genital Mutilation (FC/FGM)

14. It is estimated that 130 million girls and women worldwide have undergone female circumcision/female genital mutilation (FC/FGM), and at least two million girls are at risk of undergoing the procedure each year.[17] FC/FGM, when performed upon girls and non-consenting women, is a form of violence that violates a number of recognized reproductive rights including: the right to non-discrimination, the rights to life and physical integrity, the right to health, and the right of the child to special protections. Since 1995, 12 countries in Africa or with African immigrant populations have joined others that had previously adopted measures criminalizing FC/FGM.[18] CRLP welcomes these advances and encourages governments to take a variety of legal, policy level and education-based approaches to combat the practice and bring about the necessary change in societal and individual thinking with regard to FC/FGM.

Conclusion

15. While the last six years since the Cairo and Beijing conferences have witnessed a broad movement to recognize women's reproductive health and choices as a fundamental human right, there is still much to be accomplished in the fulfillment of

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Res. 48/104, U.N. Doc. A/RES/48/104 (Feb. 23, 1994); Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women, Convention of Belém Do Pará, 1994.

[14] Radhika Coomaraswamy, *Report of the Special Rapporteur on Violence against Women, its causes and consequences, Addendum: Policies and Practices that Impact Women's Reproductive Rights and Contribute to, Cause or Constitute Violence against Women*, E/CN.4/1997/68/Add.4 (Jan 21, 1999).

[15] CRLP, REPRODUCTIVE RIGHTS 2000: MOVING FORWARD 48 (2000).

[16] CRLP, REPRODUCTIVE RIGHTS 2000: MOVING FORWARD 47 (2000).

[17] NAHID TOUBIA, FEMALE GENITAL MUTILATION: A CALL FOR GLOBAL ACTION 5 (1995).

[18] CRLP, REPRODUCTIVE RIGHTS 2000: MOVING FORWARD 41 (2000).

governments' obligations. Governments' commitment to women's rights should be clearly reflected in legal and policy reforms, which not only affect behavior, but can shape people's understanding of equity and justice. These reforms, in turn, must be accompanied by rigorous national efforts at enforcement and implementation.

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RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND ALL FORMS OF RACIAL DISCRIMINATION

Written statement* submitted by New Humanity, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[12 January 2001]

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* This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

GE.01-10420 (E)

One of the goals of the United Nations is "to promote and encourage universal and full respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion", and it is a goal that we also want to achieve.

We are young people between the ages of 12 and 17 who are from different countries in the world, but who share the same great ideal: to build a world of peace. The many forms of discrimination and hatred which are an affront to us at our young age have not managed to discourage us, however, because we believe that the future belongs to us and it is our responsibility to prepare for it well.

Although we belong to different races, cultures and religions, we would like to live by the "golden rule", which exists in all our faiths: "Do unto others as you would have others do unto you; do not do unto others as you would not have them do unto you". We are encouraged by the Declaration on the Rights of the Child, which states that: "The child, for the full and harmonious development of his personality, needs love and understanding".

This is our testimony:

When we attended the first Conference of Children for the Future in Chiba near Tokyo last summer, we met other young people like us who needed the love that is to be found in the hearts of every person. During our stay, we learned that love can change all of our relationships if we look for what brings us together instead of what divides us. Why can the same not be true of States? If we could love another country as our own, peace would be guaranteed.

For each one of us, this was an exercise - or rather an art - which involved:

Loving everyone, by forgetting ourselves and thinking about others, without discrimination against anyone who has different ideas or who belongs to a different race or ethnic group;

Being the first to love, without expecting others to take the first step;

Loving our enemies, by forgetting past offences, learning to forgive and telling one another, with love, how we can change and improve.

Human beings cannot live alone. We have to help one another, with hearts full of gratitude towards anyone who has done us a good turn, by doing the same in return. A future full of hope will thus be guaranteed.

We have said that the future belongs to us. We would like you to hear our voice: Let us make an appointment in all our different countries to meet and establish a dialogue.

We would like to be the spokesmen for all young people throughout the world who are the victims of exploitation, war and diseases such as AIDS. We are aware of the many differences that still exist between rich countries, where consumerism rules, and poor countries and we have decided to start living differently and to spread a new culture, the culture of giving and sharing. If nations lived that way, too, all of the earth's resources would be distributed

equally, without discrimination. Could the first step towards this goal not be the cancellation of the poor countries' foreign debt so that they might have better standards of living and development?

Let us give priority to dialogue and cooperation to put an end to all wars and conflicts, which are often the result of some form of discrimination, by committing ourselves resolutely to disarmament and using money intended for weapons for more peaceful purposes. Even sports are affected by discrimination. We would like sports not to be a means of making money, but to become an opportunity for togetherness and friendship among peoples, an opportunity to learn to work together, to win, to lose and then to start again.

So many young people are left to their own devices in the streets, where they get involved in drugs to forget how miserable they are. Drugs destroy the future of young people and, in some countries, the problem is very serious: if we had better prospects for the future, many would not use drugs. We ask you to combat this evil, for example, by adopting laws to protect us.

And what about the elderly? We must pay attention to older people because, with their experience and wisdom, they have a valuable contribution to make to society.

The media are a helpful tool, but are often not properly used: we would like the media to report the positive side of what is going on in the world, to provide objective information and to describe difficult situations in different countries so that we may live in greater solidarity. We ask you to prohibit the broadcasting of violent programmes which do not respect human dignity and the value of the human body by halting the production of games and cartoons which encourage violence and racism and Internet sites which can be harmful to young people.

Peace begins in the heart of every person. We would like schools to teach values such as knowledge of and respect for other cultures and religions and we would like peace education to be part of school curricula.

Let us not waste nature's resources unthinkingly, but, with future generations in mind, let us be like plants, which use only as much soil as they need. We know that people are happy if they live in peace with themselves and with nature. Please help us defend and protect it by stopping deforestation and by promoting recycling. Please create green areas in cities where we can all get together.

We must regard science and technology not as ends in themselves, but as being in the service of mankind, by prohibiting the manipulation of human life and encouraging efforts to find alternative sources to nuclear energy.

We would like globalization, towards which the world is moving, to be based not only on financial and economic aspects, but also on the communion between cultures and religions so that all peoples may form a single family.

We have already begun to build peace.

We know, however, that we need you in order to achieve this goal. This is why we are asking for your assistance, particularly in areas to which we, as young people, do not have access. We pray every day for a new and more united world, a civilization worthy of human beings.

We are convinced that all the tears that have been shed and continue to be shed because of the consequences of discrimination are like rain falling to enhance our efforts and those of the many young people who are working to ensure that mankind may become a single family where all people may live together happily and as brothers.

We thank the Arigatou Foundation which organized the Conference in cooperation with UNICEF in Chiba (Japan) in July 2000, thereby enabling us to achieve our aspirations.

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SPECIFIC GROUPS AND INDIVIDUALS: OTHER VULNERABLE GROUPS AND INDIVIDUALS

Written statement*/ submitted by Inclusion International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[12 January 2001]

*/ This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

GE. * 2 0 0 1 0 1 0 3 7 2 *

ENG

Inclusion International, which represents some 200 associations in 115 countries, acts as watchdog for the protection of the human rights of 60 million persons with intellectual disabilities and the hundreds of millions of family members who share their lives, to be found in every nation throughout the world.

Inclusion International is one of the largest grass-roots networks of families, friends, self-advocates and professionals, all devoted to combating discrimination, abuse and neglect of these people.

For 40 years this non-governmental organization has developed initiatives in order to reach its goals :
- Inclusion of people with intellectual disability in all aspects of society;
- Full citizenship which respects individual rights and responsibilities;
- Self-determination in order to have control over the decisions affecting one's life;
- Family support through adapted services and self-help networks.

In past years, significant progress has been made in improving the living conditions of people with disabilities:

- Since they were introduced in 1993, the United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities have played a major role in making disability issues more visible;

- A number of governments have introduced legislation and policies based on the Standard Rules, and others are on the eve of formalizing policies in order to create sustainable change.

The special condition of people with intellectual disabilities is slowly being acknowledged. This Commission in particular has emphasized the need to respect the human rights of persons with developmental and psychiatric disabilities in Resolutions 1998/31 and 2000/51.

Thus Inclusion International is fully aware of the advances made. Nevertheless, such signs of progress must not only be pursued and developed, but actively defended.

- Almost a decade has passed since the link between disability and human rights was clearly outlined by the Special Rapporteur of the Sub-Commission , Mr. Leandro Despouy, in his study. But little has come of his work despite the concrete recommendations for action expressed in paragraphs 271-284.

- In practice, people with disabilities continue to be marginalized. People with intellectual disability, in particular, are the most likely of all to be incarcerated in inhumane institutions. They are commonly deprived of an education, refused ordinary social relationships, blocked from meaningful and gainful employment, reduced to irrevocable poverty... their civil and political rights are frequently abused, as are their physical persons.

These problems are not limited to developing countries. They may be found in every nation of the world, and have been acknowledged by Mrs Mary Robinson, United Nations High Commissioner for Human Rights.

- Disability issues are losing visibility. NGOs observe with dismay a growing tendency in international reports to refer to people with disabilities within the poorly defined framework of "other vulnerable groups and individuals," as if they were splinter groups (whereas they represent a significant proportion of the world's population.
  Despite the obvious and laudable wish to avoid stigmatization, such a broad and vague category puts the rights and needs of people with disabilities at the back of peoples' minds. They appear little more than an afterthought.
  People with intellectual disabilities are especially at risk since, unnamed, they and their families tend to be totally forgotten.

United Nations human rights organs have failed to agree on an international treaty to promote and protect the rights of people with disabilities, despite the fact that specific and relevant treaties already exist for other vulnerable groups such as women, children, migrant workers, minorities and refugees, all of whom have legitimacy as specific items on this Commission's agenda.

Inclusion International encourages the appointment by this Commission of a human rights expert with knowledge of disability, to conduct the examination of measures to strengthen the protection and monitoring of human rights of persons with disabilities.

However, Inclusion International would like to suggest that it might be appropriate for the Commission to acknowledge the existence of people with disabilities as a specific group and the need for greater respect of their Human rights, by introducing their cause as a permanent and explicit item of constant concern and attention on the agenda.

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THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION

Written statement* submitted by the International Indian Treaty Council, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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GE.01-10424 (E)

The International Indian Treaty Council considers it very important to draw the attention of the Commission on Human Rights to what has been happening in Guatemala, a country in which we have been following advances and setbacks in the recognition of the rights of the Mayan people, in particular fulfilment of their right to self-determination.

Guatemala has a population of two and a half million, 70 per cent of whom are ethnic Mayans. The Mayan people have their own legal, political, economic, educational and health systems; they have, besides, their own philosophy, governmental structure, authorities, territory, natural resources, distinctive religious practices, identity and culture, a legacy from the Mayas who contributed much to science and technology worldwide with, for example, the invention and use of the symbol 0 (zero).

For many centuries the Mayan people have been subjugated and suppressed by a minority of the population, which instituted for the purpose a State and legal system allowing racism, discrimination and exclusion to be practised systematically against the indigenous peoples; although not one article in the country's Constitution speaks of discrimination, discrimination is a feature of everyday life.

The result of this legal, judicial and constitutional situation has been widespread abuse of the rights of the Mayan people taking the form, for example, of the reduction of Mayan communities to abject poverty, the usurpation, plundering and theft of their lands, territory and resources; jobs that reduce them to servitude in exchange for starvation wages; genocide, though mankind will not speak out about it; subjection to a foreign educational system and language; the systematic destruction of Mayan thought, philosophy and practice; permanent, systematic exclusion from major decision-making within the country; the use of Mayan culture as a tradable commodity; mistreatment and humiliation of Mayans in the various administrative institutions of the State; and other, constantly recurring abuses.

Accordingly, many Mayans were active in various circumstances and organizations during the 36 years of armed internal conflict in Guatemala, their aim being to change the historic, structural situation that was keeping the indigenous peoples in submission and slavery.

As part of the peace negotiations in Guatemala, and as a result of dialogue between the Government, the army and the Guatemalan National Revolutionary Unity Movement (URNG), the Agreement on the Identity and Rights of Indigenous Peoples of 31 March 1995 acknowledged for the first time in the country's history that discrimination and exclusion had been practised systematically against the Mayan people, and laid down guidelines and mechanisms as a first step in the long process of doing away with discrimination by society and the State.

Now, five years after the Agreement on the Identity and Rights of Indigenous Peoples was signed, it is demonstrable that the initiative and will of Governments past and present have not inclined them towards doing away with racism and discrimination; during the lifetime of President Portillo's present Government the dangerous practice has arisen of pursuing two lines, one aimed at international public opinion and the other, the practical one of ignoring any Mayan proposal that seeks to challenge the political and legal status quo.

It cannot be denied that there are some Mayas in the current cabinet, but their political effect has been neutralized as they have been swept along by the Government's generally racist policy. Their inclusion in the cabinet seems to be part of a move to "countrify" State policy, i.e. justify it by making allowance for the natives, whereas in practice Guatemala's public policy, law, Constitution and racist practices remain unaltered.

Including a few Mayas as isolated cases also does nothing to solve the problem of State discrimination. What is needed is for the Government to take account of the Mayan people as such, and respect their decisions.

There is a concrete example of this racism and discrimination: the national Congress has on its agenda a reform of the Elections and Political Parties Act which could provide an opportunity for extensive change and openings for participation by indigenous peoples. Faced, however, with a Mayan proposal to recognize the Mayas' own political system and allow Mayan congressmen to be elected according to Mayan precepts and practices, which would allow some pluralism into Guatemalan politics, the ideological line being taken throughout the Government is that nothing to do with the Mayas or indigenous peoples will be accepted.

A referendum on reforms to the Constitution was held in May 1999 but the Government (the same as today's) and ultra-conservative groups created a climate of terror and fear at the possibility that the reforms, which would have improved some aspects of Mayan people's lives, might be approved. The Government may now plead that this is why it does not want to return to the topic of indigenous peoples; as it has a majority in Congress, however, it could make the necessary judicial and legal changes if it really wanted to.

The International Indian Treaty Council sets enormous store by the fact that in December 2000 the Commission monitoring the peace process in Guatemala set revised deadlines for compliance with some aspects of the peace accords, the Agreement on the Identity and Rights of Indigenous Peoples among them. It is nonetheless concerned that, although there are many Mayan and indigenous organizations in Guatemala, neither the Government nor URNG has called on any of them to discuss forthcoming developments as they relate to the lives of the Mayan people. This goes to show once again that it is still Government policy to leave the majority of the population out of the reckoning.

The Mayan leadership clearly understands that the country needs no more internal wars to bring about the judicial, political and constitutional changes that are required to acknowledge the existence of, and secure respect for, the Mayan people and their inherent rights. The peace process has opened an avenue of permanent dialogue; if, however, the authorities and the present Government do not concentrate on beginning a serious, mature rapprochement with the Mayan people's authorities and representatives, the future of the country may be at risk if it is only political group and party interests that continue to prevail as at present.

The International Indian Treaty Council supports efforts by Mayan people's organizations to bring discrimination, racism and political, economic, social, cultural, judicial, educational, religious and other forms of exclusion to an end one day.

It requests the United Nations, and in particular the Commission on Human Rights, to urge the Guatemalan Government to act in order to:

1. Immediately amend and reform laws that impede fair and equal participation by the Mayan and other peoples;

2. Allocate State financial resources to the indigenous peoples so that they can put into effect their political, economic, educational, cultural, religious and other plans. Such resources should be put in the hands of unimpeachably Mayan institutions so that they can be managed and administered autonomously;

3. Grant legal and constitutional recognition to the existence of the Mayan people, and set up and encourage mechanisms whereby Mayan institutions can operate without interference from governmental policies;

4. Support efforts by Mayan representatives and organizations to bring into being a nationwide Mayan body to analyse, discuss and define macro policies enabling the Mayan people to get on with their lives;

5. Continue to work seriously to give effect to the Agreement on the Identity and Rights of Indigenous Peoples as part of the peace accords, entering into dialogue with the Mayan people's representatives with a view to establishing a schedule of activities and putting the Agreement into practice;

6. Establish at the earliest opportunity a national commission for dialogue between the Government and representatives and authorities of the Mayan people, which should define priorities and mechanisms for resolving the most pressing problems that the Mayan people face on the basis of self-determination and equal participation.

The Council believes that the international community, and the United Nations especially, can continue to oversee and support efforts by the Government and the Mayan people in Guatemala to make of the State a representative entity that defends the interests and needs of all the different ethnic groups that live together within the country: the Maya, Garífuna, Xinka and Ladino peoples.

The Council urges the Guatemalan Government to hold fast to its foreign policy of unconditional support for the struggle by indigenous peoples, as it did during the discussions at the United Nations on the draft declaration on the rights of indigenous peoples.

Domestically too, however, it must make a break from the political monopoly and imposed demands of a small group in power. And in order to do that, it must recognize and give effect to the rights of our Mayan people.

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COMMISSION ON HUMAN RIGHTS
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Item 6 of the provisional agenda

RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND ALL FORMS OF DISCRIMINATION

Written statement*/ submitted by the International Indian Treaty Council, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[11 January 2001]

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*/ This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

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The International Indian Treaty Council welcomed the Third World Conference Against Racism from the day it was announced. In preparation for this international examination of the historically persistent and deadly scourge of racism upon humanity and particularly Indigenous Peoples, we have attended many preparatory meetings, including the Regional Conference of the Americas, held in Santiago, Chile in November of last year.

Lamenting that the important findings of the two Previous World Conference to Combat Racism with regard to Indigenous Peoples had virtually been ignored, our delegations attended these preparatory meetings with the hope that the international community would address the racism directed against Indigenous Peoples in a principled manner. Lamentably, again, some member States remain purposefully blind to the Indigenous human rights and fundamental freedoms grossly annulled or impaired by racism.

Although, as of this writing, the final Declaration and Programme of Action for the America's Regional Prepcom are not finalized, in our presence the drafting committee, despite strong support by most American States, qualified the use of the word "Peoples" with regard to Indigenous Peoples, as not having the significance that normally inures to the word under international law.

To avoid the use of the word in its full significance, in the context of racism and the definition of racial discrimination found in the Convention for the Elimination of all Forms of Racial Discrimination, is unprincipled. It is a distinction based on race or ethnicity that effectively annuls and impairs the rights of Indigenous Peoples. It is in itself an act of racial discrimination. Although it could be argued that the CERD Convention does not apply to this Commission as the Commission is not a signatory to its own conventions, it does apply to the States parties to the Convention who insist on the qualification. They practice their racial discrimination in the very halls of the United Nations. They nullify and impair our rights within the Commission on Human Rights.

We are not alone in this conclusion. Similar views have been expressed on numerous occasions by numerous Indigenous delegations to this Commission and to the Intersessional Working Group on the proposed UN Declaration on the Rights of Indigenous Peoples. United Nations Experts, including Mme Daes, the excellent Chairwoman of the WGIP have also expressed this view:

> "Indeed, I believe that discrimination and racism are at the heart of the indigenous issue, whether this is expressed in the reluctance of many States to recognize the right of self-determination of indigenous peoples - a right recognized all other peoples, or whether it is expressed in the absurd denial of the use of the term "indigenous peoples" contradicting all logic of language and pretending in so doing that the different indigenous peoples of the world do not have a language, history and culture unique them, or whether it is the persistence in the dominant world that indigenous peoples do no have their own long established and dynamic system of knowledge and law."[1]

We understand that some have characterized the use of the term "indigenous peoples" in the final draft of the Americas Regional Prepcom Declaration and Programme of Action as great progress. But in the view of our delegation, to qualify the word as having no significance under international law is tantamount to not using the term at all. It is a retrogression of all that many Member States and Indigenous Peoples have accomplished within this Commission for the past 30 years. The qualification of the term "Peoples" with reference to Indigenous Peoples nullifies and impairs the collective human rights and fundamental freedoms already recognized under international law and practice as collective rights of Indigenous Peoples.

The International Indian Treaty Council calls the Commission's attention to the Concluding observations of the Human Rights Committee on the Government of Canada's fourth periodic report on its observance of the International Covenant on Civil and Political Rights (ICCPR).[2]

As the treaty monitoring body of the ICCPR, the Human Rights Committee, as an area of concern, examined the application of the right of self determination to Indigenous Peoples in Canada. Pointedly, the Committee, upon examination of Canada's compliance with the ICCPR with regard to Indigenous Peoples, urged the Canadian government to "report adequately on the implementation of article 1 of the Covenant in its next periodic report."

Noting that the situation of Indigenous Peoples remained the "most pressing human rights issue facing Canadians," the Human Rights Committee emphasized in its Concluding Observations, "..that the right of self determination requires, *inter alia*, that all peoples must be able to freely dispose of their natural wealth, and that they may not be deprived of their means of subsistence," These are the obligations of States under Article 1 of the Covenant with regard to peoples.

The first World Conference to Combat Racism used the term "peoples" with relation to indigenous peoples, without any qualification.[3] The second World Conference described the rights of indigenous populations, including: their right to maintain their traditional economic, social and cultural rights, to pursue their own economic, social and cultural development, and to use and further their own language.[4] Both World Conferences recognized indigenous peoples' special relationship with the land and its natural resources and that they should not be taken from Indigenous Peoples.

Further, the Committee on the Elimination of Racial Discrimination (CERD Committee) uses the term "indigenous peoples" without any qualification. This Treaty Monitoring Body of the CERD Convention also recognizes important collective rights of indigenous peoples in its general recommendation XXIII:[5]

> "3. The Committee is conscious of the fact that in many regions of the world indigenous peoples have been, and are still being deprived of their human rights and fundamental freedoms and in particular that they have lost their lands and resources to colonialists, commercial companies and State enterprises. Consequently, the preservation of their cultures and their historical identity has and still is being jeopardized." and,

"5. The Committee especially calls upon States parties to recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources and, where they have been deprived of their lands and territories traditionally owned or otherwise inhabited or used without their free and informed consent, to take steps to return those lands and territories."

The CERD Committee has applied these standards and Article 5(c) of the CERD Convention to Australian legislation facilitating the loss of native title by Australia's indigenous peoples.[6]

The recognition extended by previous World Conferences, the Human Rights Committee and the CERD Committee to indigenous rights as peoples' rights are consistent with numerous United Nations studies, including the monumental Cobo Study, Rapporteur Mme. Daes' report on indigenous peoples and their relationship to land, as well as Special Rapporteur Miguel Alfonso Martinez' report on Treaties, agreements and other constructive arrangements between indigenous peoples and states. Limitations on written interventions by NGOs keep us from adequately describing their findings, or the recognition of the collective rights of Indigenous Peoples found in other international standards such as ILO Convention No. 169.

To qualify the term "indigenous peoples" as not having the significance normally attributed to it under international law, impairs if not nullifies all of these internationally recognized collective rights of Indigenous Peoples.

We have been told that in the case of one of the two American States insisting on the qualification, that they do not have a problem in extending recognition of the rights of peoples to Indigenous Peoples. This State claims to already recognize the right of self-determination of the Indigenous Peoples within its borders, but claims that it is concerned that such recognition might lead to the break up of other States.

The break up of States and the genocide as found in Rwanda, and Ex-Yugoslavia, as well as other such violent and truly tragic situations were not caused by the recognition of human rights. They were caused by the failure of recognition and respect for human rights. The recognition of human rights has never led to violence or national distress. Human Rights are no threat to democracy.

Our delegation is aware that the qualifying language of the America's Regional Prepcom with reference to the significance of the term "indigenous peoples" also contains a reference to the multi-national negotiations being conducted on the UN and OAS draft declarations on the rights of indigenous peoples. The first two World Conferences, United Nations Treaty Monitoring Bodies, United Nations Experts, and Indigenous Peoples have not waited for these multi-lateral negotiations to recognize the indigenous rights that are annulled or impaired by acts of racial discrimination directed against Indigenous Peoples. They rely on an established and growing body of international law.

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THE RIGHT TO DEVELOPMENT

Written statement*/ submitted by the International Indian Treaty Council, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[11 January 2001]

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*/ This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

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After learning of the devastating impacts of oil extraction in other provinces of Ecuador, the Quichua of Sarayacu gathered in Assemblies recognized as valid by the government of Ecuador, to discuss the environmental and cultural threats posed by the oil industry. The primary result, which has been publicized for years, was a formal resolution to unequivocally reject oil development.

On behalf of the Quichua People of Sarayacu, the IITC denounces the actions of the state of Ecuador which, has effectively allowed the company Argentina CGC to defraud the Quichuas of the region by offering falsely "unconditional" economic support, to provoke divisions within the communities, and to extract signed agreements with individuals rather than with the appropriate representatives of the Quichua communities, thereby undermining the Quichua's legitimate and democratically chosen leadership. In so doing, Ecuador blatantly violates its own national constitution with regard to Indigenous Peoples' collective rights as recognized therein, and violates ILO 169, the International Covenant on Economic, Social and Cultural Rights and other international instruments.

Reflecting another concern of Indigenous Peoples throughout the world, the IITC sites an example of the biotechnology industry acting in collusion with pharmaceutical companies to exploit the biodiversity found within Indigenous Peoples' territories.

One of the leaders in so-called "proprietary technologies," Diversa Corporation recently announced that they'd signed an agreement with Arctos Pharmaceuticals, "giving Diversa rights to discover genes and commercialize products from samples extracted from habitats in Alaska and neighboring territories." The agreement is part of Diversa's "global biodiversity access network," encouraging the exploitation of the Arctic and boreal ecosystems in which microorganisms produce unique bioactive compounds.

The President and CEO of Diversa claims that his company works with such speed and efficiency that it is yielding "a valuable product pipeline," a phrase reminiscent of the oil drilling and pipeline that have ravaged much of Alaska and brought toxic pollutants and illness to Indigenous communities there. Diversa works in strategic partnerships with Dow Chemical Company, Novartis Seeds AG, and others within the multi-billion dollar markets that are committing bio-piracy, causing genetic pollution in the agricultural sector and decimating the subsistence food systems of Indigenous Peoples throughout the world.

Also in Alaska, the 1.5 million-acre coastal plain of the Arctic National Wildlife Refuge (ANWR) is under clear threat of oil exploration that could be allowed by pending legislation that would undermine the Refuge's currently protected status. This area is the birthplace of the Porcupine caribou heard, upon which the subsistence, culture and way of life Gwich'in Athabascan Peoples of Alaska and Canada depend.

Rather than advocate for legislation to protect this irreplaceable and vital area for perpetuity, George W. Bush and some members of the US Congress have stated their intention to open this pristine area to oil exploration, which would cause irreparable harm to the caribou birthing grounds and thereby violate the cultural, religious and subsistence

rights of the Gwich'in Peoples. In their enthusiasm to establish legislation to allow oil leasing and drilling in ANWR, these US Congressional members and the new President of the United States have chosen to blatantly disregard the Gwich'in People's human rights concerns, which the latter have repeatedly expressed to the CHR and many other bodies.

We also note with alarm that, in central Oklahoma, United States, the very existence of the Kickapoo Nation and the health of their land and water resources are under threat by an impending North American North-South superhighway from Canada to Mexico, part of which will run through the reservation of the Kickapoo. Under the auspices of NAFTA, plans for the superhighway have been under way for four years, yet the United States -- in violation of the federally recognized sovereignty of the Kickapoo Nation, as well as treaties enacted between the two Nations, and the federal charter establishing the Kickapoo Reservation in Oklahoma -- has failed to formally discuss these plans with the Kickapoo Nation.

The superhighway would certainly bring irreversible environmental and cultural damage to the region, threatening the plant and animal species therein. It would also violate the Kickapoo's Freedom of Religion because it would destroy four traditional structures which, together, serve as the cornerstone of the Kickapoo Nation's spiritual ceremonial practices and its existence as a culture.

And lastly, on August 24, 2000, armed agents of the US Drug Enforcement Agency invaded sovereign Lakota land in the Pine Ridge Indian Reservation and confiscated industrial hemp crops slated for legitimate, commercial use. The Oglala Lakota People planted seeds indigenous to the region, and cultivated these crops as a source of raw fiber for bricks, insulation and other construction materials to be used by the Slim Butte Land Association Housing Project, a community based economic development initiative.

The US government's own statistics have, for decades, consistently shown the Pine Ridge Indian Reservation to be the poorest, most economically depressed community in the entire country. This situation is primarily the combined result of the US government's refusal to honor the 1868 Ft. Laramie Treaty with the Lakota Nation -- which was signed and ratified by the US Congress -- and the relegation of the Lakota Peoples to reservations representing a small fraction of their legally recognized Treaty lands.

By confiscating these industrial crops -- which are a distinct sub-species from the narcotic plant, marijuana, and also undergo a verifiably different cultivation process -- the US violated not only the sovereignty and Treaty Rights of the Oglala band of the Lakota Nation under US law, but also violated the Right to Development of a People who live within the borders of the wealthiest country in the world, but in a district similar by many indicators to a "developing country."

In light of the persistent poverty within Indigenous Peoples' communities, and because little has stopped the destruction of their homelands' and the natural environments that have provided and could continue to provide a means for them to exercise their Right to

Development, we urge the Commission to extend for another three years the mandate of the Special Rapporteur on the Right to Development. We ask that the Rapporteur be mandated to conduct a study for the CHR investigating the human rights impacts of imposed development and the denial of the Right to Development of Indigenous Peoples throughout the World.

We also insist that member states fulfill the commitments made to one another and to Indigenous Peoples through the conventions they have ratified.

Thank you, all my relations.

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RIGHTS TO THE CHILD

Written statement*/ submitted by the International Indian Treaty Council, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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The International Indian Treaty Council (IITC) commends the Rapporteur of the Committee on the Rights of the Child, Mr. Jaap Doek for his work for full implementation of the Convention on the Rights of the Child (CRC). In his report to the 18th session of the Working Group on Indigenous Populations (E/CN.4/Sub.2/2000/24) Mr. Doek spoke "...of the moral obligation upon the United States (of America) to refrain from taking measures which would negatively affect the situation of Indigenous children in that Country."

The IITC submits to this body a dismal report of the critical situation for American Indian children living in the U.S. impacted by dire poverty, poor health conditions, environmental contamination and widespread removal by adoption or foster care from their Indigenous communities.

In 1998, it was reported by that 38.6% of all American Indian, Aleut and Eskimo children live in poverty. And although the Report cites an " unprecedented economic growth and employment in the United States," during this time period, it notes that the highest rate of unemployment is reported for Native Americans, in some cases over 50%.

In March of 2000 the South Dakota Advisory Committee to the US Commission on Civil Rights reported that men in Bangladesh have a higher life expectancy than Native American men in South Dakota, USA, and that rates of death from a variety of causes was considerably higher for Native Americans than for the general US population, including alcoholism (579%), tuberculosis (475%), and diabetes (231%).

Even more tragic, infant mortality in Indian Country in the US was reported to be double the national average, and Pine Ridge Lakota Indian Reservation in South Dakota has the highest infant mortality rate in the Country.

In an intervention submitted to the Commission's 54th session, E/CN.4/1998/NGO/66, IITC reported that United States Public Law 95-608, the " Indian Child Welfare Act " (ICWA), implemented in 1978 to curtail the high rate of removal of Indian children from their communities by adoption to non – Indian families, was being eroded by a more recent presidential initiative called the Multi-Ethnic Placement Act (MEPA, 1995), which eliminated cultural and social standards for adoption.

Despite the provisions of ICWA, " Transracial placement " of Indigenous children in the US continues today at a rate that is alarming to American Indian Peoples. In 1976, a nationwide study found that up to 1,400 Indian children per year were being adopted by non-Indian homes. By 1997 it was estimated that more than 50,000 Indian children in the U.S. lived away from their cultural roots as adoptees in non-Indian families! (American Humane Association). This statistic does not include many thousands of Indian children living in protective custody of foster parents. It is well documented that Indian children are placed in out-of-home care at a rate 3.6 times greater than that of the general population, a direct and ongoing threat to the preservation of Indian families, cultures, languages and social structures.

In 1996, at the direction of President Clinton, the Secretary of Health and Human Services developed a plan of specific strategies to move children more quickly from foster care to permanent homes and to meet the goal of at least doubling adoptions and other permanent placement over the next five years. This plan, *Adoption 2002*, appears to be in conflict with the intentions of the ICWA and the Convention on the Rights of the Child articles 5,8,9, 14, 20, 29, and 30 as it promotes and rewards transracial placement and removal of Indigenous children for adoption outside their own extended families, cultures and communities.

Current studies have investigated the damaging effects of transracial placement which include psychological damage, ethnic identity confusion, self-concept formation difficulties, and adolescence repercussions such as alcoholism and high rates of suicide.

The traditional Native American extended family and tribal social structure makes the need for removal of children from their communities and the tribe unnecessary violation of Indigenous children's human rights and cultural survival. The wholesale placement of American Indian children into non-Indigenous homes should be stopped.

The US may have signed and ratified the International Labor Organization (ILO) Worst Forms of Child Labour Convention, 1999 (No. 182), and overwhelmingly supported two draft optional protocols to the Convention on the Rights of the Child (CRC). But until the US ratifies the Convention on the Rights of the Child itself, children living within the confines of the United States will be denied the full international protection they require and deserve.

The IITC urges the Commission to call on the United States of America, and Somalia, to ratify the Convention on the Rights of the Child before the Special Session of the United Nations General Assembly for Follow-up to the World Summit for Children in 2001.

The IITC also calls the attention of the Commission to the devastating human rights impacts of toxic contamination on the health of Indigenous children, youth and future generations. Persistent Organic Pollutants (POPs), currently a focus of an internationally binding Treaty, are man-made, carbon-based chemical compounds which bioaccumulate in the tissues of living organisms and persist for long periods of time in the environment and food chain.

POPs, including industrial chemicals like PCBs, pesticides like DDT and by-products of industrial manufacturing and waste disposal, such as dioxins, are among the most toxic substances ever created, with proven adverse impact on humans' abilities to have children by limiting the normal growth of the reproductive organs. Health effects include a marked increase in diabetes, hormone-based disorders, behavioral and learning disabilities, central nervous system damage, cancers, and diseases of the immune system.

Children are particularly susceptible to the impacts for POPs exposure beginning when they are in their mothers ' wombs and POPs pass through the mother's placenta to the unborn child.

Research on children and women who regularly eat large amounts of POPs contaminated fish from Lake Michigan of the Great Lakes of North America resulting from industrial waste dumping, found observable and measurable behavioral effects and learning deficits passed from one generation to the next. In the US and Canada, Mohawk Indian Peoples traditionally consume large amounts of fish, and Mohawk women carry over 10.000 parts per million of PCB in their bodies that is passed on to babies in the womb and through breast milk.

In Mexico and Central America, DDT and other hazardous commercial pesticides banned for use in northern industrialized countries, are imported and commonly used in agricultural practices, including aerial spraying of crops, workers and communities. In 1997 in Sonora, Mexico, a was study conducted by a University of Arizona scientist in homelands of the Yaqui Indians targeted by the so called " green revolution " policies of the Mexican Rural Bank for high pesticide and chemical fertilizer use since the 1940 's. This study detected high levels of multiple pesticides in the cord blood of newborns and in mother's milk, and found severe learning and development disabilities in Yaqui children living in agricultural areas.

Other forms of industry-created contaminates also specifically target children and the unborn in Indigenous and other communities which depend on the natural surroundings for their subsistence. In July 2000 in the United States of America, the National Academy of Sciences released a study concluding that an estimated 60,000 babies born each year in the US face serious threats of learning disabilities and other forms of neurological damage due to mercury contamination resulting from coal-fired power plant emissions released into rivers and lakes.

The primary cause is consumption of contaminated fish by pregnant women living in the Great lakes, Northeast and other regions of the country. The Academy concluded that there is " little or no margin of safety" for the consumption of mercury by women of childbearing age.

The impacts of the continued production and proliferation of Persistent Organic Pollutants and other industrial toxins prevent Indigenous children from the full enjoyment of the highest attainable human rights standards recognized by existing international instruments, by depriving them of their means of subsistence and putting their health at serious risk. The threat to the quality of life, health and reproductive capability of our future generations is no less than genocide. Corporations and states continue to make deliberate decisions to contaminate communities and eco-systems based on self-serving economic factors, which put our lives, children and future generations at serious risk.

The IITC calls upon this distinguished Commission to appoint a Special Rapporteur on Indigenous Peoples to investigate the human rights impacts of these practices. The IITC also requests members of the Committee on the Rights of the Child to consider these issues during their next meeting, particularly with regard to CRC article 24 with referring to " environmental pollution. " Finally, the IITC urges the Committee on the Rights of the Child to immediately establish an Indigenous task force that would serve as an advisory group addressing the needs of Indigenous children within the framework of the Convention.

Thank you, all my relations.

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INDIGENOUS ISSUES

Written statement*/ submitted by the International Indian Treaty Council,
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The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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The International Indian Treaty Council, our affiliates Defensoria Maya and Comite Campesina del Altiplano of Guatemala, Movimiento de la Juventud Kuna of Panama, and Federacion Indigena y Campesina de Imbabura of Ecuador along with Indigenous Peoples representatives from around the world, participated in the 6th UN Intersessional Working Group on the Draft Declaration for the Rights of Indigenous Peoples November 20 – December 1, 2000, established by Commission resolution 1995/32.

The IITC has been involved in this process since its inception in the UN Working Group on Indigenous Populations. During the Declaration's twelve-year drafting process in the WGIP, every effort was made to accommodate views of UN experts, Indigenous Peoples and states. States had ongoing opportunities to propose wording, much of which is now included in the current text. Indigenous Peoples participating in the process felt that more than sufficient compromise was made on their part in order to reach agreement on the current text as it now stands.

The resulting Declaration has been endorsed not only by two UN bodies, but by hundreds of Indigenous Peoples, Nations, organizations and communities around the world, who have accepted the current text as the "minimum standard" necessary for insuring full international recognition of the essential rights of Indigenous Peoples. Indigenous Peoples have stated that they are not willing to compromise any further to consider changes that would diminish, limit or qualify the essential, broad rights the Declaration currently recognizes.

This position is taken not out of stubbornness, intransigence or a failure to understand the UN process. It is based on principle and in many cases, the clear mandate of our affiliates and members.

For Indigenous Peoples, the ongoing debate of over the Draft Declaration is not a legalistic " word game", nor is it tactical maneuvering to hold out for the "best we can get". It is a critical and principled process of upholding and recognizing the sacred and inalienable rights necessary to survival of our children and our future generations. IITC, along with hundreds of other organizations and Peoples, is committed to defending the current text as an integrated whole, despite pressure by some states for us to accept language that would limit the essential rights it now recognizes for the sake of making "progress" towards its adoption.

While it seems that some states want to maintain the status quo by throwing up obstacles to the process, many others appear to recognize this as an historic opportunity to build new relationships with Indigenous Peoples, based on mutual respect and recognition. The discussions about the principles and rights encompassed by the Declaration are historic in and of themselves within the UN system. We recognize the contributions of Chairman-Rapporteur Mr. Luis Chavez in maintaining his commitment to transparency, open exchange of views, and equality of participation by both state and Indigenous Peoples' delegations during these sessions. This equality of participation is essential for the legitimacy of the Declaration that will eventually be approved by this process.

In this spirit, the IITC expresses disagreement with the pattern established over the previous two years in which states have entered into closed sessions, without the participation of Indigenous Peoples, to draft new or alternative composite texts of articles under discussion, and have included them as annexes in the Chairman-Rapporteurs' report. We believe that this methodology is contradictory to the principle and practice of full and equal participation, consensus –building, and the intention of Commission resolution 19995/32, which states that the Declaration text as approved by the UN Subcommission for the Prevention of Discrimination and Protection of Minorities in 1994 as the basis for discussion and work in the Intersessional Working Group.

A notable indication of progress made during the last session was that a key element on which states have not been able to agree in the past, the unqualified use of the term "Indigenous Peoples" throughout the Declaration, received a much greater level of support by states. Only a handful of states still expressed their opposition to its unqualified use in the Declaration.

However, some states continue to propose changes that would seriously weaken or undermine the integrity of the current text and diminish the rights it affirms. One example at the last session was the suggestion by a small ground of states that the term "applicable" be inserted to Article 1 of the Declaration, one of the articles under discussion.

The collective position of the Indigenous caucus representing the Indigenous participants from all regions of the world, is that the addition of this term in Article 1 would effectively limit the international protections for Indigenous Peoples to only those international laws or conventions which have actually been ratified by the individual states in which they live. Indigenous Peoples oppose such attempts to limit or "domesticate" the full enjoyment of internationally recognized rights. We support the current text, which insures full protection under the entire range of human rights law, including customary international law, despite the status of their ratification by individual states.

The IITC looks forward to advancing this historic process in the true spirit of partnership between Indigenous Peoples and states. We request the support of the Commission on Human Rights in continuing this vital process by extending the mandate of the Intersessional Working Group on the Draft Declaration or the Rights of Indigenous Peoples at this session.

The IITC also welcomes the newly created Permanent Forum for Indigenous issues, in spite of some misgivings on the part of Indigenous Peoples that it will truly be able to accomplish its mandate. Although the matter of its organization and budget are now in the hands of the Economic and Social Council (ECOSOC), this Commission, as the originator of the resolution giving rise to its creation is still very influential in these matters.

The ECOSOC resolution on the Establishment of the Permanent Forum states, that, "the Permanent Forum on Indigenous Issues shall serve as an advisory body to the Council with a mandate to discuss indigenous issues within the mandate of the Council relating to economic and social development, culture, the environment, education, health, and human rights."

In light of this broad mandate, our concerns extend to two matters now pending before ECOSOC: the organization of the Secretariat and its location.

We are greatly concerned about the perceived assumption on the part of the United Nations system, particularly ECOSOC and this Commission, that the secretariat of the Permanent Forum will be subsumed or attached to the Office of the High Commissioner (OHCHR). We continue to recognize the important contributions and reliable support of the OHCHR and this Commission with regard to Indigenous human rights. As Indigenous Peoples and their NGOs, we will continue our participation and input in both. We would hope and expect that neither the OHCHR nor this Commission would cease their vital interest or activities in the protection and promotion of the Human Rights of Indigenous Peoples.

But the mandate and methods of work of the Permanent Forum, including the provision of expert advice and recommendations to the Council, as well as programmes, funds and agencies of the United Nations system, are very broad and include areas of interest not within the expertise or mandate of the OHCHR, nor of this Commission. The Permanent Forum, as envisioned by Indigenous Peoples and this Commission, is to work with the entire United Nations system included in the mandate of ECOSOC. It is our view that a secretariat located within the OHCHR will be limited in its scope to fully implement the Permanent Forum's mandate and methods of work.

We, along with many other Indigenous organizations and NGO's, are very concerned about the eventual location of the Secretariat, given the mandate to relate to United Nations programmes and agencies many of which conduct their activity in New York. To be effective, we believe that the Secretariat of the Permanent Forum must be able to establish ongoing relations with these agencies and participate with them regularly to address in issues of concern to Indigenous Peoples. ECOSOC itself must become acquainted with Indigenous Peoples and their issues.

For these and other reasons, including the importance of having a secretariat that is headed by Indigenous persons, we would urge this Commission to communicate these concerns to ECOSOC.

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COMMISSION ON HUMAN RIGHTS
Fifty-seventh session
Item 17(b), (d) of the provisional agenda

PROMOTION AND PROTECTION OF HUMAN RIGHTS: HUMAN RIGHTS DEFENDERS SCIENCE AND ENVIRONMENT

Written statement*/ submitted by the International Indian Treaty Council, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[11 January 2001]

*/ This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

GE.*200-0465*

ENG

b) Human Rights Defenders

The International Indian Treaty Council and its Guatemala affiliates Defensora Maya and Comite Campesia del Altiplano report the situation of Guatemala to this Comission. We begin with the assassinations of José Alfredo Quino, age 29, and Maria Elena Mejia, age 21, Director and Secretary, respectively, of CORCI, a Guatemalan Indigenous organization primarily dedicated to the peaceful resolution of disputes arising from the return of Indigenous refugees. They were assassinated on July 20th, 2000 by six hooded men armed with Galil rifles, solely used by the Guatemalan military.

On July 7, 2000, Mr. Domingo Sequec Sunún, council member of the Municipality of Concepción, indigenous leader and member of the organization Comité Civico "La Luz del Cambio" was assassinated under similar circumstances.

The characteristics of these assassinations, the perpetrators, their methods and armaments, all lead to the conclusion that governmental para-military groups are again operating in Guatemala, and are directing their attention to Indigenous human rights defenders.

Our delegation also brings to the Commission's attention, the kidnapping and interrogation by unidentified men, of Mr. Celso Balban Argueta. He is a CALDH human rights promoter involved in the investigation of clandestine mass graves of victims of the recent genocide in Guatemala, was kidnapped and interrogated on September 4, 2000. The heavily armed men also looted and sacked the Guatemala City offices of the Association of Families of the Disappeared, and terrorized its staff and leadership.

Death threats have been received against Nobel Laureate Rigoberta Menchu Tum and others involved with the complaints recently filed by various Guatemalan Indigenous leaders and organizations, in the Spanish Courts. Numerous death threats have also been directed against Indigenous leader Ms. Rosalina Tuyuc, founder and President of CONAVIGUA, the Widows' National Coordinating Committee of Guatemala, and a past Guatemalan Congressional representative.

Whole communities who defend their rights are at risk in Guatemala. On September 19, 2000, agents of the Ministerio Publico, a Guatemalan Ministry, judges, and members of the National Police assigned to the Department of Quiche, arrived by helicopter at the indigenous communities of Xachboj, Chaxá, Santa Rosa, Cimientos Chajul, San Marcos Kumlaj, all of the Mayan Ixil Peoples in the Department of Quiché. They informed the Indigenous communities that they had an order of removal of these communities from their lands, which were now "owned" by the company Navalija.

The communities refused to leave. Early in the morning of September 20, 2000, National Police and Guatemalan military, in a show of force clearly intended to threaten and intimidate, concentrated in the central plaza of Chajul, Quiche, where the communities were peacefully meeting.

In September 2000 The International Indian Treaty Council filed an urgent communication to the Rapporteur on Extra-judicial, summary or arbitrary executions, addressing the assassinations of Jose Alfredo Quiño and Maria Elena Mejia, but to date we have received no response. The IITC urges the Comission's Rapporteur on Extrajudicial Executions to prioritize an investigation into these incidents, and the increased intimidation and violence against Indigenous Human Rights defenders in Guatemala since the installation of the new government of President Alfonso Portillo.

d) Science and the Environment
Indigenous Peoples are disproportionately impacted by exposures to Persistent Organic Pollutants (POPs) on a global level, depriving them of their health, development, reproductive capacities, means of subsistence and right to practice their cultures, religious ceremonies, and traditional ways of life.

IITC and its affiliate, the Indigenous Environmental Network recognize the breakthrough by the 5th Intergovernmental Negotiating Committee for an International Legally Binding Instrument for Implementing International Action on Certain Persistent Organic Pollutants last December in Johannesburg, South Africa, where language for a Treaty on POPs was finally approved. The Treaty now supports elimination and the precautionary approach, strongly advocated by Indigenous representatives and NGOs.

Elimination language blocked attempts by states to establish trading systems whereby an increase dioxin releases from some sources and reduction of others, might result in a "a net decrease." This cynicism was precisely what the United States and a few other industrialized states proposed at the 6th international conference on global warming at the Hague last November. The IITC deeply regrets the ongoing efforts of industrialized countries to protect destructive industrial practices at the expense of the global environment as well as the health and human rights of all Peoples

The POPs Treaty requires all Parties to "regulate with the aim of preventing the production and use" of new pesticides and industrial chemicals which have POPs properties (toxic, persistent, bioaccumulation, long range transport). Since the Treaty contains no mechanisms to insure industry responsibility, state parties will need to exercise maximum responsibly and vigilance to monitor compliance and full participation of industries, including multi-national corporations.

The IITC calls upon member states of the Commission to ratify without delay the POPs Treaty and all of its provisions so that it can enter into legal force, taking into consideration the well-documented human rights impacts of the proliferation of Persistent Organic Pollutants. The IITC also urges states to adopt implementing legislation at the domestic level in order to become full parties to this important international Treaty.

Finally, again with regard to science and the environment, our delegation draws the Commission's attention the Nevada Test Site, located within Newe Sogobia, (Western Shoshone) ancestral and Treaty lands, 65 miles northwest of Las Vegas, Nevada.

The United States and Great Britain conducted 1,000 full-scale nuclear explosions there, leaving the landscape barren and contaminated before the 1992 Comprehensive Test Ban Treaty banned any further testing. Since that time, the US Department of Energy has continued to conduct "sub-critical testing" to "demonstrate" whether nuclear weapons components such as Plutonium and Uranium will develop problems as they age. As of October 1999 only the US and Russia acknowledged that they engage in "sub-critical" nuclear testing.

Yucca Mountain, a sacred mountain to the Western Shoshone Peoples is situated there. The US now proposes a dumping ground for the US high-level nuclear waste at this site despite the protests of the Western Shoshone Nation. Studies on environmental impacts of this project have revealed that storage at Yucca Mountain is fundamentally unsafe due to active fault lines and an extremely high water table, which has been leaking into the nuclear storage tunnel within the mountain.

Corbin Harney, Western Shoshone elder and spiritual leader, requested that we present this message directly to the Commission members at this session:

> "I'm going to talk a little bit about the Test Site, the Test Site where the Nuclear Energy Department have said one time that they weren't going to test any more. But they continue to test every month but they are not telling the public nothing about what they've been doing...We, as a people are a guinea pigs for the Department of Energy. So far we are running out of things like water for one. All the berries that used to be out there for the animal life is not there, the birds.
>
> "Yucca Mountain is not something that they should be putting the nuclear rods into. High-grade nuclear rods, they put thousands and thousands of rods into it. Now the tunnel is hot, it's going to get hotter because the water's leaking into the tunnel and what are they thinking putting nuclear rods in it? When it gets hot what's going to happen to that mountain?
>
> "So I would say to you people it's for you to bring this attention to the world that we are suffering from the DOE, what they have been doing to us...We already began to witness a lot of different things that the DOE has been doing so this is the reason why we, as a native people, I would say we have suffered. Enough is enough.
>
> "We don't have clean water anywhere throughout the world. Some places the world is now suffering for water. Let's not let this continue. Let's think about the younger generation, what they going to be doing in the future. So this is something that I'd like to say to you, I really appreciate what you are going to do, so that way we all connect ourselves together as one people. Let's not think we're different from each other. We're not. We're on one world here all of us. We're drinking that same water around the world."...

Our delegation notes the mandate of the Commission's Rapporteur on Toxic Dumping and urge the Commission to enlarge her mandate in order to full examine the effects of nuclear waste on human rights and fundamental freedoms.

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COMMISSION ON HUMAN RIGHTS
Fifty-seventh session
Item 12(a) of the provisional agenda

INTEGRATION OF THE HUMAN RIGHTS OF WOMEN AND THE GENDER PERSPECTIVE: VIOLENCE AGAINST WOMEN

Written statement*/ submitted by the European Women's Lobby,
a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[19 January 2001]

*/ This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

GE. *200-00469*

ENG

1. Women's human rights and equality are intrinsically linked. Particular forms of human rights violations constitute persistent barriers for fulfilling women's enjoyment of their rights. Violence against women is one such area.

2. As defined in the Beijing Platform of Action, violence against women is defined as any act of gender-based violence that results in, or is likely to result in physical, sexual or psychological harm or suffering to women. This broad definition encompasses all forms of violence against women, including forms of abuse, which are gradually being recognised as issues of concern, notably, psychological violence. This definition also recognises that violence against women, particularly in the context of an intimate relationship, is part of a continuum and rarely the result of a once-off act.

3. A study carried out by the EWL in 1999 on domestic violence in the European Union (EU) reached the conclusion that 1 in 4 women in the EU experience some form of violence by their intimate male partner. 95% of all acts of violence take place within the home.

4. Moreover, some women and specific groups of women are particularly vulnerable to violence, such as women in situations of armed conflict, refugee women and migrant women, women in custody, women living under fundamentalism, women with disabilities and older women, indigenous women, lesbian and women from ethnic minorities.

5. Some women, simply because they are women, experience specific forms of persecution which are not recognised as a violation of their fundamental human rights and their integrity. Cultural explanations are still used to excuse these forms violations.

6. With globalisation of the market, the sex industry has developed into one of the most profitable business in the world. The international organised criminal networks are taking advantage of poverty, lack of opportunities, violence experienced by women while legal migration possibilities in most EU countries have either decreased or ceased. Women from Eastern Europe and former Soviet Union are trafficked into the countries of the EU with false promises to work when in fact they end up sexually exploited, deprived of their freedoms and their minimum rights. This extreme form of violation is in parallel to the increase in demand of the sex market. Based on its motion on prostitution and trafficking in women, adopted in 1998, the European Women's Lobby strongly states that:
   - Prostitution and trafficking in women constitute a fundamental violation of women's human rights.
   - Prostitution and Trafficking in women should not be associated with the terms "forced" or "free".
   - It should be recognised that "free choice" is a relative factor, situated at the intersection of economic, social, cultural and political options of women in a given society. Inequality severely restricts freedom of choice.

7. The EWL wishes to stress the vital importance of mainstreaming gender into all Human Rights actions, programmes and policies. In this context the EWL makes some general recommendations to the European Union and Member States and calls on them to work in close collaboration with civil society, and especially women's non-governmental organisations in order to seek their expertise to take a lead in the area of Human rights and to combat violence against women.

Therefore, the European Women's Lobby calls on the Commission to:

- Call upon the states which have not yet done so to ratify the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) and to ratify the optional Protocol

- Recommend that Governments include in all bi-lateral, sub-regional, regional and international commitments to address the problem of trafficking in women with specific reference to the newly adopted UN Convention on International Crime and its Protocol on Trafficking in Human Beings as well as the 1949 UN "Convention on the Suppression of the Traffic in persons and the exploitation of the Prostitution of others".

- Call upon the states which have not yet done so to ratify as soon as possible the Rome Statute to establish the International Criminal Court. This international instrument is the first international instrument, which recognises rape as a war crime.

- Formally request the states to adopt an asylum policy which recognises gender specific violations of human rights. Forced marriages, FGM, honour killing, the persecution of family members of political opponents, rape as a war crime are only examples of the type of persecutions which should be recognised as legitimate causes for granting asylum.

- Prostitution and trafficking in women: the EWL urges the Commission to state clearly that prostitution and trafficking in women for the purpose of prostitution and sexual exploitation violate the human rights of women. Therefore, any justification to the question of consent to prostitution should be rejected. In countries legalising prostitution, for example, in the Netherlands, Germany, and Greece, there has been a growth in trafficking and other related crimes. To legalise prostitution is to give up a vital part of the fight for women's human rights. The EWL calls upon the Special rapporteur on Violence against Women to enlarge her consultation with women's NGOs, to ensure that a broad scope of NGOs, notably those opposing legalisation, also get the opportunity to contribute to the debate on the legalisation of prostitution. Broad based women's NGOs, and notably those regrouped in the International Human Rights Network have

often publicly presented their comments and would like to see them taken into account in the report.

- Call upon the European Union and the Member States to recognise the role of the civil society and NGO's fighting for Human Rights and against violence against women and to make a commitment to strengthen the dialogue and co-operation with them. NGOs should be involved and consulted by the EU in the elaboration and implementation of policies aimed at combatting all forms of violence against women and to ensure the participation of NGOs as partners.

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COMMISSION ON HUMAN RIGHTS
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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF: RELIGIOUS INTOLERANCE

Written statement*/ submitted by the Association of World Citizens, a non-governmental organization on the Roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[14 December 2000]

*/ This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

GE. *200*0*0473*

ENG

The ban on the Falun Gong spiritual practice and continued government repression

1) In a Written Statement, E/CN.4/2000/NGO/2 of 20 January 2000, the Association of World Citizens set out the nature of the banning of the spiritual practice Falun Gong by the security authorities of the People's Republic of China on 22 July 1999, followed by subsequent widespread repression.

2) Unfortunately, one year later, the ban is still maintained and repression of Falun Gong practitioners remains widespread. As an editorial in the *China Daily* states "The fight against Falun Gong is a long-term and arduous one. The nature of the cult is heretical, its energy, stubbornness and destructive power all lie in heresy. This is a major political issue that concerns the fate of the nation and the people." (*China Daily*, 6 November 1999). In addition, building on its offensive against the Falun Gong, the Chinese Government has moved to assert its authority over other spiritual movements and Qi gong schools, including those officially registered, such as the closing in December 1999 of the Zhong Gong Traditional Culture Training Institute in Shaanxi Province and ending the manufacture of Zhong Gong health and medicinal products.

3) A useful background paper on Falun Gong was published by Amnesty International "*The Crackdown on Falun Gong and Other so-called "Heretical Organizations"* 23 March 2000, which has been updated since. Also useful for background and testimonies of Falun Gong practitioners is Danny Schecter *Falun Gong's Challenge to China: Spiritual Practice or "Evil Cult". (New York: Akashic Books, 2000, 254pp.)*. Falun Gong practitioners have made wide use of the Internet both to present their views and to provide information on repression. See: www. falundafa. org and www. falundafa. org/world.htm. The Chinese Government's prolonged attacks on Falun Gong practice in the press and television is published in five booklets *Falun Gong is a Cult* (Beijing: New Star Publishing, 1999, 314pp). One will also find extensive articles reflecting the Government's position on the web sites of *China Daily* and the Xinhua News Agency (www. xiinhua.org).

4) In the light of information given to us in good faith, the Association of World Citizens here presents a nine-point programme to advance human rights and the rule of law by a revision of the policy and practice of the Government of the People's Republic of China toward the spiritual movement Falun Gong so that internationally-recognised human rights standards are met. The bulk of these revisions can be carried out only by the Government of the People's Republic of China. However, we in the human rights community have a duty to uphold the norms set out in universally-recognised declarations and covenants. We also have a duty to help the Government of States to find proper solutions when, through fear and bad advice, they take short-sighted measures which are harmful and destructive of social harmony. The banning and repression of Falun Gong is one such destructive measure.

5) Therefore, We call for the lifting of the ill-advised ban of 22 July 1999 against Falun Gong practice which began an ever-wider cycle of repression against Falun Gong practitioners. The ban against Falun Gong practice without a trial or other form of public

examination is a violation of the spirit and provisions of the *Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion of Belief*. The ban was the first act which created a negative spiral of actions and repression. Therefore, the first action to reverse the spiral toward a movement of justice and harmony must be a lifting of the ban.

6) We call for the release from the *laogai* -"reform through labour" camps of Falun Gong practitioners who have been placed in these camps on administrative orders without a trial and with no date for their release. The *laogai system of administrative detention is the weakest link in the Chinese rule of law, and UN human rights bodies such as the Committee on Torture have made repeated comments on the need to abolish or profoundly reform these forms of administrative detention.* In practice, families of persons placed in administrative detention have not been notified. Conditions in the camps open the door to many abuses and arbitrary decisions. In addition, the "custody and repatriation" system has been widely used against Falun Gong practitioners, especially those going to Beijing to appeal for their rights. The custody and repatriation system of administrative detention is also a very weak link in the rule of law.

7) We call for the release from police jails and prisons of Falun Gong practitioners held in arbitrary detention in conditions which do not meet internationally-recognised standards. Many persons have been held without trial, unable to communicate with family members, and without access to lawyers.

8) We call upon the Authorities to investigate the many accusations of torture and degrading punishment of Falun Gong practitioners in jails and prisons. If these accusations are exact, measures should be taken against torturers in keeping with the *Convention against Torture* ratified by the People's Republic of China. In particular, there needs to be careful investigation of torture and abuse against women Falun Gong practitioners. There seems to be a persistent pattern of abuse of women in police jails and prisons. In addition to wide-spread testimony of torture, there have been serious accusations of deaths in jails and prisons. Such accusations need impartial investigation.

9) We call upon the Authorities to investigate accusations that Falun Gong practitioners have been placed against their wills in mental institutions and forced to take drugs unrelated to their needs.

10) We call upon the Government to allow a serious legal defence of all Falun Gong practitioners which the Government may decide to bring to trial. Such trials should be in open court. Legal counsel should have time to prepare a defence, to call witnesses, and to plead for acquittal. Trials should be announced in advance so that family members can attend. The trials of Falun Gong practitioners which have already taken place should be revised as they did not meet international standards of fairness nor of the independence of lawyers and judges.

11) We call for the release of publishers and printers of Falun Gong books, booklets, and audio-visual material. These individuals are held for printing material which was not banned at the time of printing, a clear case of an *ex post facto* prosecution.

12) We call upon the Authorities to investigate accusations that Falun Gong practitioners have been pressured to renounce Falun Gong practice through loss of jobs, loss of housing, loss of access to schools and education, loss of pensions. Such harassment is particularly severe against Government civil servants who have practised Falun Gong. When such accusations are accurate, remedial steps should be taken to restore work, housing, access to schools, pensions, and all other rights and benefits of the individual.

13) We call upon the Government to revise the law against "evil cults" of 30 October 2000 - a law specifically designed to justify the measures already taken against Falun Gong practitioners and which is being increasingly used against other spiritual movements and practices.

14) We urge the Government to invite the relevant Special Rapporteurs of the UN Commission on Human Rights and such advisory staff as is needed to facilitate these revisions of policy against Falun Gong practitioners. We believe that these measures will help create social harmony and allow individuals to act in keeping with their conscience.

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SPECIFIC GROUPS AND INDIVIDUALS: OTHER VULNERABLE GROUPS AND INDIVIDUALS

Written statement*/ submitted by the Association of World Citizens, a non-governmental organization on the Roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[8 January 2001]

*/ This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

GE. * 2 0 0 1 0 1 0 4 7 9 *

ENG

Slavery and Rape of Women and Girls in Sudan

1. The Association of World Citzens submits this statement on the strength of the reports of successive UN Special Rapporteurs on Sudan, which led to the recommendation by the High Commissioner for Human Rights: "One example of a country where traditional slavery persists is the Sudan. A preventive action could be to disarm militias which abduct people for slavery." (E/CN.4/2000/12, para.59. Traditional Slavery)

2. Despite intermittent negotiations and some new initiatives during the year 2000, the armed conflict, including raiding for slaves, continues in the Sudan. The conflict has resulted in the death of an estimated two million black Africans and the displacement of over four million over the past 17 years.

3. The Government of Sudan (GOS) has used slave raids against the civilian Dinka population of northern Bahr El Ghazal as one of its counter-insurgency policies since the outbreak of the current phase of the Civil War in 1983. Other communities, such as the Nuba tribes and Dinkas of Southern Kordofan and the Nuers of western Upper Nile, are similarly affected, although less research has been done on the plight of black African slave from areas other than northern Bahr El Ghazal.

4. It is estimated that there are still over 100,000 black African chattel slaves held in bondage in northern Sudan. The overwhelming majority of these slaves are women and girls. This estimate is based mainly on evidence from the chiefs and other civic leaders of the victimized Dinka community in northern Bahr El Ghazal and non-governmental sources in northern Sudan. For example, the Civil Commissioner of Aweil West County, Simon Wol, states that his county authorities have on record the names of approximately 14,000 slaves, and that the true number of those in slavery from his county must be five or six times that number.

5. Some secondary sources cite UNICEF as estimating that there are no more than 14,000 "abducted" women and children held in northern Sudan. As no other source is cited, it must be assumed that the low UNICEF figure is based exclusively on the recorded figure from Aweil West County alone.

6. Slavery is defined in international law as a "crime against humanity". Most enslaved Sudanese women and girls are subjected to brutal, de-humanizing treatment at the hands of their captors and masters. During the forced marches to northern Sudan, they are customarily beaten, gang-raped repeatedly, and forced to carry looted property. Some of the women and girls have their throats cut or are shot to death if they cannot keep up with the slave caravan, or if they are caught trying to escape. Others die of thirst and starvation. The survivors are divided up amongst their captors. Some are kept by their captors, while others are bought and sold. Most of the slaves are held on farms and cattle camps. The women and older girls normally perform domestic or agricultural labour, without pay. Liberated female slaves report a pattern of physical and psychological torture, including corporal punishment, forced conversions to Islam, female genital mutilation, and rape. Many of the liberated women and girls bring back young children that are the result of rape. Interviews with recently freed slaves point to sexual violence, especially repeated gang-rape, as the most traumatic aspect of slavery for women and girls. This kind of sexual violence is the norm for physically mature female slaves in Sudan, and is, in some cases, a part of the experience of pre-pubescent girls.

7. Since the early 1990's, the GOS's slave raids have taken place in the context of a declared *jihad* against the black African communities that resist these policies. Most slave raids are carried out by units of the GOS's Popular Defence Forces (PDF), an officially recognized branch of Sudanese state's armed forces. In November 2000, the President of Sudan, General Omer Bashir, signalled the beginning of a new season of slave raiding when he urged 12,000 combat-ready PDF troops at a mobilization rally in the western town of Nyala to continue the "*jihad*" in Southern Sudan. (*AFP*, Khartoum, 17 November 2000) Within the first ten days of January 2001, the PDF captured 122 black African women and children during attacks on Acuro, Ajok, Wunkir, Nyinameeth and Nyinaccor in Aweil West County, according to UN officials in Khartoum. (Reuters, Khartoum, 10 January, 2001) Thus the recommendation of the High Commissioner for Human Rights concerning slavery and the disarming of militias retains all its relevance now.

8. In 1999, the GOS established a Committee for the Eradication of the Abduction of Women and Children (CEAWC). Most of the members of this committee are Arab Muslim government officials, including members of the security service. There is only one member who represents the victimized Dinka community, the Khartoum resident James Aguer, formerly of Marial Bai, Southern Sudan. According to the UN Special Rapporteur's most recent report to the General Assembly, the GOS periodically arrests and otherwise harasses Mr. Aguer. The GOS has succeeded in raising over one million euros from UNICEF, the EU and some Member States – especially Germany and Canada. Between December 1999 and May 2000, the GOS's CEAWC dispatched 155 black African women and child slaves - including children unaccompanied by parents or relatives and without guides, food or water - from the GOS-controlled town of Aweil into a dangerous, mined no-man's land. Only 22 of the 155 Dinka slaves are known to have reached their homes safely; 133 slaves remain missing and have not been traced. On 10 January 2001, the UNICEF representative in Khartoum announced that no "abducted" children had been reunited with their families for the past six months through the GOS's programme. The CEAWC has not yet published independently audited accounts of its income and expenditure.

9. The available evidence clearly shows that the practice of slave-taking, the violent transfer of slaves from one community to another and the custom of sexual violence committed against enslaved women and girls constitute crimes against humanity, within the meaning of article 7 of the Rome Statue of the International Criminal Court, adopted by the United Nations Conference of Plenipotentiaries on 17 July 1998.

10. Crimes against humanity are punishable as crimes under international law, and any person who commits an act that constitutes a crime under international law is, therefore, responsible and liable to punishment. To quote the words pronounced three years ago by Secretary-General, Kofi Annan: "There can be no global justice unless the worst of crimes – crimes against humanity – are subject to the law" (Message to the UN Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, 17 July 1998)

11. The Association of World Citizens calls upon the appropriate UN bodies, Member States and the Commission on Human Rights to:

a) Condemn in the strongest terms slavery and all other related crimes against humanity committed by agents and armed forces of the Government of the Sudan;

b) Activate the existing UN mechanisms and procedures in order to bring to an end the grave violations of human rights in the Sudan including urgent measures to prevent

further cases of slavery, slave-trading in women, girls and children, and rape, especially gang-rape;

c) Implement the proposal made last year by the High Commissioner for Human Rights for "preventative action ... to disarm militias which abduct people for enslavement" in Sudan. (E/CN.4/2000/12, para. 59.);

d) Bring to justice before a war crimes tribunal those responsible for capturing and holding Sudanese slaves;

e) Support the long-standing grass-roots initiatives of Dinka and Baggara civil society to liberate slaves and return them to their homes and families in northern Bahr El Ghazal;

f) Urge UNICEF to fly freed slaves directly to the air strips nearest to their homes in Southern Sudan, using the same planes and routes that are used for the delivery of UNICEF's humanitarian aid, rather than sending them to the GOS garrison town of Aweil where their freedom and security is not guaranteed; and

g) Urge the GOS to pay reparations to former Sudanese slaves.

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Fifty-seventh session
Item 11 (a)(f) of the provisional agenda

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF: TORTURE AND DETENTION STATES OF EMERGENCY

Written statement*/ submitted by the Association for World Education, a non-governmental organization on the Roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[8 January 2001]

*/ This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

GE. *200*0*0483*

ENG

Egypt's "State of Emergency" Regulations: the case of Dr. Neseem Abdel Malek

1. Twenty years ago after the assassination of President Anwar Sadat, a "state of emergency" was re-introduced by the Government of Egypt. In May 2000 it was extended for a further three years. Under these regulations any civilian may be referred to a military court by a presidential decision if the case falls under the general category: "act of terrorism" (see article 6 of Act N° 52 of 1966).

2. The Association for World Education is highlighting one particular gross miscarriage of justice, in order to illustrate the iniquitous results of a system that, on inadequate, or non-existent evidence, often leads to "arbitrary detention" and to long imprisonment without appeal.

3. Dr. Neseem Abdel Malek is in prison since September 1997 on a 25 year sentence - reduced to 10 years in January 2000. Opinion N° 10/1999 (Egypt) of the Working Group on Arbitrary Detention (20 May 1999), and the reply of the Egyptian Government, are here reprinted without any modification.

4. In view of the deteriorating health of Dr. Neseem Abdel Malek, on 20 November 2000 the Association for World Education made a further "urgent appeal" to the Working Group on Arbitrary Detention. This appeal was transmitted to the Government of Egypt in the usual manner.

OPINION N° 10/1999 (EGYPT), ADOPTED ON 20 MAY 1999
[E/CN.4/2000/4/Add.1, pp. 52-55]

Communication addressed to the Government of Egypt on 2 June 1998.

Concerning: Neseem Abdel Malek.

The State is a Party to the International Covenant on Civil and Political Rights

5. (1) The Working Group on Arbitrary Detention was established by resolution 1991/42 of the Commission on Human Rights. The mandate of the Working Group was clarified and extended by resolution 1997/50. Acting in accordance with its methods of work, the Working Group forwarded the above-mentioned communication to the Government.

6. (2) The Working Group conveys its appreciation to the Government for having forwarded the requisite information in good time.

7. (3) The Working Group regards deprivation of liberty as arbitrary in the following cases:

(i) When it manifestly cannot be justified on any legal basis (such as continued detention after the sentence has been served or despite an applicable amnesty act) (Category I);

(ii) When the deprivation of liberty is the result of a judgement or sentence for the exercise of the rights and freedoms proclaimed in articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and also, in respect of States parties, by articles 12,

18, 19, 21, 22, 25, 26 and 27 of the International Covenant on Civil and Political Rights (Category II);

(iii) When the complete or partial non-observance of the relevant international standards set forth in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned relating to the right to a fair trail is of such gravity as to confer on the deprivation of liberty, of whatever kind, an arbitrary character (Category III).

8. (4) In the light of the allegations made, the Working Group welcomes the cooperation of the Government. The Working Group transmitted the reply of the Government to the source and received its comments. The Working Group believes that it is in a position to render an opinion on the facts and circumstances of the cases, in the context of the allegations made and the response of the Government thereto.

9. (5) In 1993, Dr. Neseem Abdel Malek, formerly the director of the El-Khanka mental hospital in Cairo, issued a certificate of insanity (*) in the case of Saber Farahat Abu Ulla, who had killed four foreign tourists in a Cairo hotel; he was thereafter confined at El-Khanka hospital. In September 1997, Saber Abu Ulla participated in the killing of nine German tourists and their driver in front of the Egyptian Museum in Cairo. He was convicted, sentenced to death and executed in May 1998.

10. (6) According to the source, Dr. Abdel Malek was arrested in connection with the Egyptian Museum massacre. On 13 November 1997, he was sentenced to 25 years in prison by a military court. The court found him guilty of having taken bribes from Saber Abu Ulla, and of having illegally released Saber Abu Ulla from the mental hospital on 15 September 1997 (although he was absent from hospital from 15 to 17 September 1997). According to the source, the sole evidence against Dr. Abdel Malek came from the convicted murderer himself, who had first implicated another doctor who signed his certificate of insanity in 1993, and then retracted that testimony to accuse Dr. Abdel Malek, a Copt. Thus, the doctor who had signed the certificate was duly acquitted, and Dr. Abdel Malek found guilty in his place.

11. (7) It is alleged that the trial against Dr. Abdel Malek suffered from serious deficiencies. Thus, although a civilian, he was tried by a military court. It is submitted that a bribery charge by a certified insane killer who had previously stated that his acts were part of his crusade ("jihad") for God and that he would target "infidels", was totally insufficient evidence to convict a Coptic hospital doctor to 25 years in prison.

12. (8) The source contends that Dr. Abdel Malek was kept in solitary confinement for 15 days after 18 September 1997 before being allowed a visit from his lawyer. His detention was then extended for 30 days. Until the start of the trial, the charges against him were not disclosed and his lawyers had no access to the court files concerning the charges and investigations. Throughout this period of time, Mr. Abdel Malek was kept in incommunicado detention.

13. (9) The military authorities had 45 days, from the day of pronouncement of the sentence to approve or disapprove the military court's verdict. The source submits that a military commander approved the sentence against Mr. Abdel Malek on 1 January 1998, and that his "approval" of the sentence was not made public, so as to avoid public foreign criticism.

14. (10) The above allegations are said to reveal the existence of a serious miscarriage of justice in the case of Mr. Abdel Malek, bearing also in mind that bribery charges frequently carry no more than a 3 year prison sentence.

15. (11) The Government, in its response dated 27 July 1998, states that Neseem Abdel Malek, employed as a director of Al-Khanka Hospital for Mental and Neurological Health, along with others in Military Felony Case N°. 66/97, was accused of having perpetrated offences between 1993 and 1997 by demanding sums of money from Saber Fasahat Abu Ulla, the first accused, as a bribe in return for granting him long furloughs contrary to the law. According to the Government, the first accused testified that he gave Neseem Abdel Malek and other accused money, in return for breaching their work duties by failing to administer his prescribed medication and by granting him long furloughs contrary to the law.

16. (12) The military court, in its judgement on 13 November 1997, relied on the testimonies of the first accused, Saber Farahat Abu Ulla, the fourth, fifth, seventh, eighth and tenth accused to the effect that Dr. Neseem Abdel Malek, the third accused had taken sums of money to enable the first accused to obtain special privileges. The court also relied on the testimony of Sayyid Isa Ibrahim Muhammad and the another brother and sisters of the first accused, Saber Farahat Abu Ulla during investigations conducted by the office of the Attorney General. The court also relied upon a search of the private clinic of Dr. Neseem Abdel Malek.

17 (13) The third, fourth, fifth and seventh accused were also public servants at the time of commission of the offence and admitted that they, along with Dr. Neseem Abdel Malek, had demanded sums of money from Saber Farahat Abu Ulla in return for granting him long furloughs. The eighth accused was at the time the officer in charge of the patients' entrance gate; he had also demanded a bribe from the first accused in return for allowing him out on furloughs of unlimited duration. The tenth accused was the night duty officer who allowed the first accused to leave.

18. (14) The court sentenced Dr. Neseem Abdel-Malek to lifelong penal servitude under Art. 103 and 104 of the Penal Code. The fifth, eighth and the tenth to the thirteenth accused were also sentenced to ten years or more penal servitude.

19. (15) The Government, therefore, contends that the complaint was both factually and legally unsustainable. The Government also observed that the trial hearings were public and that a lawyer representing the third accused appeared throughout.

20. (16) The source in turn contends that the statement of the first accused could not be relied upon, as he had lost "criminal credibility", being a full-time resident of a mental hospital. The source also suggests that Dr. Neseem Abdel Malek was implicated by the first accused because of his hatred for Christians. It refers to the testimony of the mother, who [illegible] to any of the doctors. According to the source, Dr.

(b) That Dr. Neseem Abdel Malek was kept in solitary confinement for 15 days after 18 September 1997 before being allowed a visit from his lawyer.

(c) That until the start of his trial, the charges against him were not disclosed and his lawyers had no access to the court files concerning charges and investigations, and that throughout this period Dr. Neseem Abdel Malek was kept in incommunicado detention.

22. (18) The Working Group, upon consideration of the above facts, finds it difficult to reach any definitive conclusions on the merits of the case. The conflicting nature of the evidence reflected by the allegations of the source and the response of the Government persuade the Group to refrain from entering upon the merits of the testimonies. The Working Group notes, however, that the specific allegations of the source, which have not been responded to by the Government, as indicated above, justify the conclusion that Dr. Neseem Abdel Malek was not accorded a fair trial, contrary to articles 9 and 10 of the Universal Declaration of Human Rights, and articles 9 and 14 of the International Covenant on Civil and Political Rights. The violation is of such gravity as to confer an arbitrary character to his continued detention.

23. (19) In the light of the foregoing, the Working Group renders the following opinion:

> The deprivation of liberty of Dr. Neseem Abdel Malek is arbitrary, as being in contravention of articles 9 and 10 of the Universal Declaration of Human Rights and articles 9 and 14 of the International Covenant on Civil and Political Rights and falls within category III of the applicable categories to the consideration of the cases submitted to the Working Group.

24. (20) Consequent upon the opinion rendered, the Working Group requests the Government: to take the necessary steps to remedy the situation, and bring it in conformity with the standards and principles set forth in the Universal Declaration of Human Rights.

* [AWE's factual clarification: The above-mentioned certificate of insanity was issued in 1993 by Dr. Sayed El-Qut, then the head of another mental institute in Cairo; he later became Deputy Health Minister. Dr. Neseem Abdel-Malek, a doctor at El-Khanka hospital from 1978, became its director in mid-1992 before Saber Faraht Abu Ulla was transferred there.]

REPLY OF THE GOVERNMENT OF EGYPT (E/CN.4/2000/4, § 27.28)

25. (27) The Government of Egypt, in reaction to the Group's Opinion 10/1999 in the case of Neseem Abdel Malik, recalls that the Egyptian legal system provides for the trial of civilians before military tribunals in certain cases. As the case of the above concerned an act of terrorism, the President of the Republic referred it to a military court, under article 6 of Act N° 52 of 1966. The Department of Public (not military) Prosecutions ordered the preventive

by such courts, had to inform the defendant of the charges against him. The Government equally dismisses the allegation that defence counsel was not afforded access to the case file: rather, the case was pleaded by several prominent lawyers and all were provided with a copy of the file. Regarding the allegation that the legally prescribed penalty for bribery does not exceed three years, the Government recalls that article 103 of the Criminal Code prescribes hard labour for life as the penalty for bribery, although the court may exceptionally reduce the penalty to a minimum of three years. The military court considered that the defendant did not merit mitigating circumstances.

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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF: INDEPENDENCE OF THE JUDICIARY, ADMINISTRATION OF JUSTICE, IMPUNITY RELIGIOUS INTOLERANCE

Written statement*/ submitted by the Association for World Education, a non-governmental organization on the Roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[8 January 2001]

The Ancient Jewish Community of Iran and the Shiraz "Show Trial"

1. An important Jewish community existed in Babylonia and Persia from biblical times. Tens of thousands of Jews were successively deported to Assyria from the northern Kingdom of Israel (from 732 BCE) and to Babylonia from the southern Kingdom of Judea (597-581 BCE), particularly after the fall of Jerusalem and the destruction of the tenth century Temple built by King Solomon. After capturing Babylon in 538 BCE, the Persian ruler 'Cyrus, king of all... son of Cambyses' authorized the Jews to return to their homeland. About 50,000 did, while thousands remained in exile "by the rivers of Babylon". Cyrus the Great is extolled in biblical messianic terms - as the "annointed" one - for having authorized the return of the exiles, and the rebuilding of Jerusalem and the Second Temple. (Isaiah 44:28-45:1) During the tolerant two hundred year Persian rule in Judea (Yehud), and in the diaspora of Persia and Mesopotamia for a millenium and more, Jewish community life flourished.

2. All the regions invaded by the Arab conquerors from the seventh century were governed by Islamic legislation. The native inhabitants either converted to Islam or became dhimmis, that is: non-Muslim peoples "protected" by the dhimma - a pact granted to them in the treaty of submission that ended the jihad onslaught. This dhimmi status of inferiority - for Christians, Jews, Samaritans, Sabeans, Zoroastrians, and others - varied with place and period, but in Iran and in many other regions it continued into the twentieth century. The traditional climate of contempt is revealed in thousands of Islamic juridical and other texts, as well as in historical dhimmi sources. The legal inequality of dhimmis with Muslims is exemplified by the invalidity of their testimony in an Islamic court, based on a strict interpretation of the shari'a law.

3. Over the following centuries, the Jews of Shiraz - like their correligionists in other towns of Iran - were the target of constant discrimination and persecution. An example: in 1910 their quarter was totally destroyed by a fanatical mob, following a false ritual murder accusation involving a Muslim: 12 Jews were killed, 50 wounded, and 6,000 left homeless and in tatters. (1) In the 1990s the pious Jews of Shiraz were considered by the authorities to be an "assertive community," mainly because they refused to close their shops on Friday and open them on the Sabbath - one of the more plausible reasons for the arrest of 13 Jews on Passover eve 1999, among whom were a rabbi, three Hebrew teachers and a kosher butcher. This, in spite of the fact that articles 12 and 13 of Iran's Islamic Constitution purports to accord "full respect to their religion."

4. The Jewish community of Iran, which numbered nearly 120'000 in 1948, had diminished to about 70,000 in 1978. Now barely 20,000, this remnant is again - as so often in the past - in danger of scapegoat discrimination, and elimination as a religious group. One obvious aim of the Shiraz "show trial" was to create a situation of insecurity, so that the Iranian Jews would follow those who had abandoned their homes just prior to, and after, the 1979 Islamic Revolution. Since the Shiraz arrests and the TV show trial - where the accusations of espionage stemmed from contacts with their relatives in Israel - the departures have continued. The objective is thereby being achieved.

5. Before the trial, President Muhammad Khatami guaranteed that, under Islamic law, the

6. In his wide-ranging Report on Iran to the fifty-sixth session (E/CN.4/2000/35) Special Rapporteur Maurice Danby Copithorne devotes a section to the status of minorities. In his conclusion, he states that "one of the backwaters of the human rights situation in Iran is the status of minorities, ethnic and religious." In Annexe II, he referred, inter alia, to the case of the thirteen arrested Jews. (His Report for 2001, submitted to the fifty-seventh session of the Commission will provide fuller details.) He also mentioned that Iran's 13th, 14th and 15th periodic reports on the Elimination of All Forms of Racial Discrimination were considered at the August 1999 session of the CERD. (2) On 4 August 1999, the plight of Iran's Jewish community was raised by Mr. Regis de Gouttes of France; Iran's promised "written response" on this question - and also regarding other minorities - is still awaited. Special Rapporteur Maurice Glélé-Ahanhanzo's Report on Racism (E/CN.4/2000/16), also covers Iranian Jewry under '150-53.

7. The show trial of the thirteen Jews was "balanced" for the media with eight Muslims, but no outside observers or lawyers were accepted. The court-appointed defence lawyers were quoted in the Iranian press as saying that their clients were guilty. The head of the local judiciary stated that four of the defendants had confessed and asked for mercy. This was denied by defence attorney Esmail Naseri. Just before the trial began on 1 May 2000, the executive director of the Middle East and North African division of Human Rights Watch, Hanny Megally, declared: "The defence lawyers have not had access to all the files in the case, even for the minimum five-day period required by Iranian law." In September 2000, the appeals court reduced very slightly the harsh sentences handed down against ten of the thirteen Iranian Jews, three of them being acquitted.

8. In two urgent appeals addressed to the High Commissioner for Human Rights on 3 July and 21 September (copies of which were sent to the Special Rapporteur on Iran and to the Special Rapporteur on the Independence of Judges and Lawyers, Mr. Param Cumaraswamy), the Association for World Education raised a key point in this trial. It relates to the fact that while thirteen of the accused are Jews and eight are Muslims, yet all the trial proceedings - held in an Islamic court, behind closed doors "for security reasons" - appear to have been separate for each religious group. No details of the trial of the eight Muslims were provided, other than the acquittals, or the light sentences handed down. None went to prison. Experts on Islamic law explain this anomaly by the fact (see above ' 2) that, under the traditional interpretation of the Islamic shari'a law - whether it be Sunni or Shi'ite - any testimony by a non-Muslim in regard to a Muslim has no validity whatsoever in an Islamic Court.

9. We specifically appealed to Mrs. Mary Robinson to initiate a Special Procedures mechanism, via Mr.Param Cumaraswamy: "to enquire whether it is true that, in the Shiraz trial, any testimony from a Jew with regard to a Muslim was considered invalid by the court, because of the traditional and imperative obligations of the sacred Islamic shari'a law which forbids it. If this is still the actual situation in the Islamic Republic of Iran, then "justice" would have been basically flawed, and the appropriate UN body should intervene immediately to insist that all international human rights norms (ratified by Iran) be upheld for all in this case - and from now on."

10. On the initiative of Iran's President Khatami - soon after he took office in 1997 - the Year 2001 was officially designated by the United Nations General Assembly as "United Nations Year of

11. The Association for World Education reiterates its previous urgent requests to Mrs. Mary Robinson, and to Mr. Param Cumaraswamy: to initiate a Special Procedure mechanism along the lines indicated above; and for Mr. Maurice Copithorne - within his mandate - to examine this key substantive issue in all its legal ramifications.

12. The Association for World Education also calls upon this Commission: to examine diligently this landmark case when preparing its resolution on Iran, particularly in regard to the "universality of justice." The international human rights norms set out in the International Covenants - ratified by Iran - must be firmly upheld
on all occasions by the Commission, UN bodies, and UN Member States.

Notes

(1) David Littman,"Les Juifs en Perse avant les Pahlevi," *Les Temps Modernes*, NE 395, (Paris, June 1979), pp. 1910-1935 (and enlarged offprint, Imprimerie de l'Avenir, Geneva, Nov. 1979); Enlarged English version, "Jews under Muslim Rule: The Case of Persia", *Wiener Library Bulletin*, (London, June 1979) 32, n.s. 49/50, pp. 2-15.

(2) See 15th periodic report of States parties due in 1998. Add. Islamic Republic of Iran: CERD/C/338/Add. 8 of 28 October 1998.